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9 UNITED STATES BANKRUPTCY COURT

10 FOR THE DISTRICT OF NEVADA

11 In re:

12 LAS VEGAS MONORAIL COMPANY,
13 Debtor.

Case No.: 10-10464-BAM
Chapter 11

14 Date:
15 Time:

16 **[PROPOSED] DISCLOSURE STATEMENT TO ACCOMPANY**
17 **DEBTOR'S PLAN OF REORGANIZATION**
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APPENDIX

EXHIBIT "A": PLAN OF REORGANIZATION

EXHIBIT "B": LIQUIDATION ANALYSIS

EXHIBIT "C": FINANCIAL PROJECTIONS

**I.
INTRODUCTION**

On January 13, 2010 (the "Petition Date"), Las Vegas Monorail Company, a Nevada non-profit corporation (the "Debtor") filed a voluntary Chapter 11 petition for relief (the "Petition") in the United States Bankruptcy Court for the District of Nevada, Las Vegas (the "Bankruptcy Court") under Chapter 11 of the Bankruptcy Code,¹ being case no. BK-S-10-10464-BAM (the "Bankruptcy Case").

The Debtor has prepared this Disclosure Statement in connection with the solicitation of votes on the Debtor's Plan Of Reorganization (the "Plan") proposed by the Debtor to treat the Claims of Creditors of the Debtor.

Capitalized terms used but not defined in this Disclosure Statement have the meanings ascribed to such terms in the Plan. In the event of a conflict or difference between the definitions used in this Disclosure Statement and in the Plan, the definitions contained in the Plan shall control.

The Exhibits to this Disclosure Statement included in the Appendix are incorporated into, and are a part of, this Disclosure Statement. The Plan is attached as Exhibit A. Any interested party desiring further information should contact:

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Interested parties may also obtain further information from the Bankruptcy Court at its website: <http://www.nvb.uscourts.gov>.

Each Holder of a Claim entitled to vote on the Plan should read this Disclosure Statement, the Exhibits hereto including the Plan, and the instructions accompanying the Ballots

¹ Unless otherwise indicated herein, all references to Chapters or Sections refer to title 11 of the United States Code (the "Bankruptcy Code"), and all Rule references shall refer to the Federal Rules of Bankruptcy Procedure (the "Rules").

1 in their entirety before voting on the Plan. These documents contain important information
2 concerning the classification of Claims for voting purposes and the tabulation of votes.

3 **II.**
4 **INFORMATION REGARDING THE PLAN AND THIS DISCLOSURE STATEMENT**

5 The objective of a Chapter 11 bankruptcy case is the confirmation (i.e. approval by the
6 bankruptcy court) of a plan of reorganization. A plan describes in detail (and in language
7 appropriate for a legal contract) the means for satisfying claims against, and equity interests in, a
8 debtor. After a plan has been filed, the holders of such claims and equity interests that are
9 impaired (as defined in Section 1124 of the Bankruptcy Code) and receiving some cash or
10 property on account of such claims or equity interests are permitted to vote to accept or reject the
11 plan. Before a debtor or other plan proponent can solicit acceptances of a plan, Section 1125 of
12 the Bankruptcy Code requires the debtor or other plan proponent to prepare a disclosure
13 statement containing adequate information of a kind, and in sufficient detail, to enable those
14 parties entitled to vote on the plan to make an informed voting decision about whether to accept
15 or reject the plan.

16 The purpose of this Disclosure Statement is to provide sufficient information about the
17 Debtor and the Plan to enable Holders of General Unsecured Claims, 1st Tier Bond Secured
18 Claims, 1st Tier Bond Unsecured Claims, and Director Claims to make an informed voting
19 decision about whether to accept or reject the Plan (Holders of other Claims will be deemed to
20 have accepted or rejected the Plan, as the case may be, without the need for them to vote).
21 Because the Debtor is a non-profit corporation, it does not have equity interests. This Disclosure
22 Statement will be used to solicit acceptances of the Plan only after the Bankruptcy Court has
23 found that this Disclosure Statement provides adequate information in accordance with Section
24 1125 of the Bankruptcy Code and has entered an order approving this Disclosure Statement.
25 Approval by the Bankruptcy Court is not an opinion or ruling on the merits of the Plan and it
26 does not mean that the Plan has been or will be approved by the Bankruptcy Court.

27 After the appropriate Persons have voted to accept or reject the Plan, there will be a
28 Confirmation Hearing to determine whether the Plan should be confirmed by the Bankruptcy

1 Court. At the Confirmation Hearing, the Bankruptcy Court will consider whether the Plan
2 satisfies the requirements of the Bankruptcy Code. The Bankruptcy Court will also receive and
3 consider a Ballot summary, which will present a tally of the votes cast by those Classes entitled
4 to vote on the Plan. Once confirmed, the Plan will be treated essentially as a contract binding on
5 all Creditors and other parties-in-interest in the Bankruptcy Case, even if they rejected the Plan.

6 **THIS DISCLOSURE STATEMENT SUMMARIZES CERTAIN PROVISIONS OF**
7 **THE PLAN AND CERTAIN OTHER DOCUMENTS AND FINANCIAL**
8 **INFORMATION THAT ARE INCORPORATED BY REFERENCE HEREIN**
9 **(COLLECTIVELY, THE “INCORPORATED DOCUMENTS”). THE SUMMARIES**
10 **CONTAINED HEREIN ARE QUALIFIED IN THEIR ENTIRETY BY REFERENCE TO**
11 **THE INCORPORATED DOCUMENTS. IN THE EVENT OF ANY INCONSISTENCY**
12 **OR DISCREPANCY BETWEEN A DESCRIPTION IN THIS DISCLOSURE**
13 **STATEMENT AND THE ACTUAL CONTENT OF ANY OF THE INCORPORATED**
14 **DOCUMENTS, THE INCORPORATED DOCUMENTS SHALL GOVERN FOR ALL**
15 **PURPOSES.**

16 **THE INFORMATION IN THIS DISCLOSURE STATEMENT IS INCLUDED**
17 **HEREIN FOR PURPOSES OF SOLICITING ACCEPTANCES OF THE PLAN AND**
18 **MAY NOT BE RELIED UPON FOR ANY PURPOSE OTHER THAN TO DETERMINE**
19 **HOW TO VOTE ON THE PLAN. THIS DISCLOSURE STATEMENT THEREFORE**
20 **DOES NOT CONSTITUTE, AND MAY NOT BE CONSTRUED AS, AN ADMISSION OF**
21 **FACT OR LIABILITY, A STIPULATION OR A WAIVER IN ANY PROCEEDING**
22 **OTHER THAN THE SOLICITATION OF ACCEPTANCES OF THE PLAN AND**
23 **CONFIRMATION OF THE PLAN. FOR ALL PURPOSES OTHER THAN THE**
24 **SOLICITATION OF ACCEPTANCES OF THE PLAN, THIS DISCLOSURE**
25 **STATEMENT SHOULD BE CONSTRUED AS A STATEMENT MADE IN**
26 **SETTLEMENT NEGOTIATIONS RELATED TO CONTESTED MATTERS,**
27 **ADVERSARY PROCEEDINGS, AND OTHER PENDING OR THREATENED**
28 **LITIGATION OR ACTIONS.**

1 THE CONFIRMATION, EFFECTIVENESS AND CONSUMMATION OF THE
2 PLAN ARE SUBJECT TO MATERIAL CONDITIONS PRECEDENT. THESE
3 MATERIAL CONDITIONS ARE DISCUSSED IN SECTION VI OF THIS DISCLOSURE
4 STATEMENT. THERE IS NO ASSURANCE THAT THESE CONDITIONS WILL BE
5 SATISFIED OR WAIVED.

6 IF THE PLAN IS CONFIRMED BY THE BANKRUPTCY COURT AND THE
7 EFFECTIVE DATE OCCURS, ALL HOLDERS OF CLAIMS AGAINST THE DEBTOR
8 (INCLUDING THOSE HOLDERS WHO DO NOT VOTE ON THE PLAN) WILL BE
9 BOUND BY THE TERMS OF THE PLAN AND THE TRANSACTIONS
10 CONTEMPLATED THEREBY.

11 THIS DISCLOSURE STATEMENT HAS BEEN PREPARED IN ACCORDANCE
12 WITH SECTION 1125 OF THE BANKRUPTCY CODE AND BANKRUPTCY RULE
13 3016(b) AND NOT NECESSARILY IN ACCORDANCE WITH FEDERAL OR STATE
14 SECURITIES LAWS OR OTHER NON-BANKRUPTCY LAWS.

15 THIS DISCLOSURE STATEMENT HAS NOT BEEN APPROVED OR
16 DISAPPROVED BY THE UNITED STATES SECURITIES AND EXCHANGE
17 COMMISSION (THE "SEC"), NOR HAS THE SEC PASSED UPON THE ACCURACY
18 OR ADEQUACY OF THE STATEMENTS CONTAINED HEREIN.

19 THE DEBTOR MAKES THE STATEMENTS AND PROVIDES THE
20 FINANCIAL INFORMATION CONTAINED HEREIN AS OF THE DATE HEREOF,
21 UNLESS OTHERWISE SPECIFIED. PERSONS REVIEWING THIS DISCLOSURE
22 STATEMENT SHOULD NOT INFER THAT THE FACTS SET FORTH HEREIN HAVE
23 NOT CHANGED SINCE THE DATE HEREOF.

24 EACH HOLDER OF AN IMPAIRED CLAIM WHO IS ENTITLED TO VOTE
25 SHOULD CAREFULLY REVIEW THE PLAN, THIS DISCLOSURE STATEMENT
26 AND THE EXHIBITS TO BOTH DOCUMENTS IN THEIR ENTIRETY BEFORE
27 CASTING A BALLOT.

28

12 THE MANAGEMENT OF THE DEBTOR HAS REVIEWED THE FINANCIAL
13 INFORMATION PROVIDED IN THIS DISCLOSURE STATEMENT. ALTHOUGH
14 THE DEBTOR HAS ENDEAVORED TO ENSURE THE ACCURACY OF THIS
15 FINANCIAL INFORMATION, THE FINANCIAL INFORMATION CONTAINED IN,
16 OR INCORPORATED BY REFERENCE INTO, THIS DISCLOSURE STATEMENT
17 HAS NOT BEEN AUDITED, UNLESS OTHERWISE STATED HEREIN.

20 The following summary of the Plan is qualified in its entirety by reference to the detailed
21 explanations in this Disclosure Statement and the Plan itself. For a more detailed description of
the Plan, see Article VI hereof and the Plan.

28

Pursuant to Section 1123(a)(1) of the Bankruptcy Code, Allowed Administrative Claims and Priority Tax Claims are not designated as Classes under the Plan. In general, these Claims consist of the fees and costs of professionals employed on behalf of the Estate. The Holders of such unclassified Claims are not entitled to vote on the Plan and will be paid in full under the Plan consistently with the requirements of Section 1129(a)(9)(A) of the Bankruptcy Code.

The Distributions under the Plan to each Class are summarized in the following table:

Class	Description	Treatment	Estimated Amount of Claims ¹
Class 1:	Other Priority Claims	Unimpaired. Paid in full in Cash. ² No solicitation required. <u>See Section VI.C.1.</u>	\$ 1,805.56
Class 2:	Other Secured Claims	Unimpaired. Paid in full in Cash or otherwise left Unimpaired. No solicitation required. <u>See Section VI.C.2.</u>	\$ 1,700.00
Class 3:	General Unsecured Claims	Impaired. Paid pro rata share of \$175,000. Solicitation required. <u>See Section VI.C.3.</u>	\$150,000.00 - 175,000.00 ³
Class 4:	1st Tier Bond Secured Claims	Impaired. Amended and Restated 1st Tier Note for \$7,500,000 delivered to the Director. Solicitation required. <u>See Section VI.C.4.</u>	\$7,500,000.00
Class 5:	1st Tier Bond Unsecured Claims	Impaired. Additional Payment Obligation Note for	\$445,000,000.00

¹ These *estimated* amounts were compiled by combining the undisputed, liquidated, and noncontingent claims included on the Debtor's bankruptcy schedules, as amended, together with the proofs of claim on file on or about August 16, 2010. As such, these amounts are estimates only, and may change as additional proofs of claim are filed and/or to the extent that the Debtor obtains the disallowance of certain of the filed proofs of claim.

² The vast majority of Other Priority Claims have been paid in full pursuant to the orders approving the First Day Motions, discussed herein.

³ This estimate excludes rejection damages and Disputed personal injury claims.

1		\$11,000,000 delivered to the	
2		Director. Solicitation	
3		required. <u>See Section</u>	
		<u>VI.C.5.</u>	
4	Class 6: 2nd Tier Bond Claims	Impaired. Subordinated to	\$158,749,493.40
5		payment in full of 1st Tier	
6		Bond Claims. No	
7		distribution. No solicitation	
		required. <u>See Section</u>	
		<u>VI.C.6.</u>	
8	Class 7: 3rd Tier Bond Claims	Impaired. Subordinated to	\$48,500,000.00
9		payment in full of 1st Tier	
10		Bond Claims and 2nd Tier	
11		Bond Claims. No	
		distribution. No solicitation	
		required. <u>See Section</u>	
		<u>VI.C.7.</u>	
12	Class 8: Director Claims	Impaired. Participation in	\$0.00
13		1st Tier Bond Claims as	
14		provided for in Amended	
15		and Restated Financing	
16		Agreement and 1st and 2nd	
17		Tier Indenture. Solicitation	
		required. <u>See Section</u>	
		<u>VI.C.8.</u>	
18	Class 9: Subordinated Claims	Impaired. No distribution.	\$0.00
19		No solicitation required. <u>See</u>	
		<u>Section VI.C.9.</u>	

20 Other Priority Claims, which consist of any and all Claims accorded priority in right of
 21 payment under Section 507(a) of the Bankruptcy Code, other than Priority Tax Claims, are
 22 provided for in Class 1. Allowed Other Priority Claims will be paid in full in Cash under the
 23 Plan; therefore, Holders of Allowed Other Priority Claims are Unimpaired.

24 Other Secured Claims, which consist of any Secured Claims other than Secured Claims
 25 arising under the Financing Agreement and the Secured Claim portion of the 1st Tier Bond
 26 Claims, are provided for in Class 2. Allowed Other Secured Claims, if any, will be paid in full in
 27 Cash or otherwise left Unimpaired, in full and final satisfaction of such Claims.

28

1 General Unsecured Claims are provided for in Class 3. Holders of Class 3 Claims are
2 Impaired. Each Holder of an Allowed Claim that is a General Unsecured Claim will be paid
3 80% of its Allowed General Unsecured Claim, but in no event shall the total payment to the
4 Holders of all Allowed General Unsecured Claims exceed \$175,000, it being understood that if
5 such total payment would exceed \$175,000, the Holders of Allowed General Unsecured Claims
6 shall instead receive their Pro Rata share of \$175,000 in full satisfaction of their Allowed
7 General Unsecured Claim. Allowed Claims in Class 3 will be paid in Cash in twelve (12) equal
8 installments.

9 1st Tier Bond Secured Claims, which consist of any and all Secured Claims held by a 1st
10 Tier Bondholder and the 1st Tier Trustee under the 1st and 2nd Tier Indenture, the 1st Tier
11 Bonds, the 1st Tier Note, and the Financing Agreement, are provided for in Class 4, which is an
12 Impaired Class. In full and final satisfaction of 1st Tier Bond Secured Claims, the Director will
13 receive the Amended and Restated 1st Tier Note. The Director shall assign the Amended and
14 Restated 1st Tier Note to the 1st Tier Trustee, reserving to the Director its indemnification and
15 other rights as specified in the assignments of those obligations in the 1st and 2nd Tier Indenture.
16 The 1st Tier Note shall be extinguished and discharged and the Amended and Restated Financing
17 Agreement shall provide for the liabilities and obligations arising under the Amended and
18 Restated 1st Tier Note and shall not provide for any liabilities or obligations regarding the 1st
19 Tier Bond Claims or the 1st Tier Notes. Commencing March 31, 2011, Reorganized LVMC will
20 commence payment of the Amended and Restated 1st Tier Note to the Director in full and final
21 satisfaction of the Secured Claim portion of the 1st Tier Bond Claims.

22 1st Tier Bond Unsecured Claims, which consist of any and all Unsecured Claims held by
23 a 1st Tier Bondholder and the 1st Tier Trustee under the 1st and 2nd Tier Indenture, the 1st Tier
24 Bonds, the 1st Tier Note, and the Financing Agreement, are provided for in Class 5, which is an
25 Impaired Class. In full and final satisfaction of 1st Tier Bond Unsecured Claims, the Director
26 will receive the Additional Payment Obligation Note, which will be unsecured. The Director
27 shall assign the Additional Payment Obligation Note to the 1st Tier Trustee, reserving to the
28 Director its indemnification and other rights as specified in the assignments of those obligations

1 in the 1st and 2nd Tier Indenture. Commencing March 31, 2011, Reorganized LVMC will
 2 commence payment of the Additional Payment Obligation to the Director in full and final
 3 satisfaction of the Unsecured Claim portion of the 1st Tier Bond Claims.

4 2nd Tier Bond Claims, which consist of any and all Claims held by a 2nd Tier
 5 Bondholder and the 2nd Tier Trustee under the 1st and 2nd Tier Indenture, the 2nd Tier Bonds,
 6 the 2nd Tier Obligation, and the Financing Agreement, are provided for in Class 6, which is an
 7 Impaired Class. Holders of Allowed 2nd Tier Bond Claims will be subordinated to payment in
 8 full of Allowed 1st Tier Bond Claims and shall not receive or retain any property on account of
 9 their Claims under the Plan.

10 3rd Tier Bond Claims, which consist of any and all Claims held by a 3rd Tier Bondholder
 11 and the 3rd Tier Trustees under the 3rd Tier Indenture, the 3rd Tier Bonds, the 3rd Tier Note,
 12 and the Financing Agreement, are provided for in Class 7, which is an Impaired Class. Holders
 13 of Allowed 3rd Tier Bond Claims will be subordinated to payment in full of Allowed 1st Tier
 14 Bond Claims and 2nd Tier Bond Claims and shall not receive or retain any property on account
 15 of their Claims under the Plan.

16 Director Claims, which consist of any Claims of the Director arising under or related to
 17 the Financing Agreement (and by implication thereof its rights under the 1st and 2nd Tier
 18 Indenture) as impaired by the Amended and Restated Financing Agreement, which are not part
 19 of the 1st Tier Bond Claims, 2nd Tier Bond Claims, 3rd Tier Bond Claims, or Subordinated
 20 Claims, are provided for in Class 8, which is an Impaired Class. On the Effective Date, the
 21 Amended and Restated Financing Agreement shall become effective and from and after the
 22 Effective Date, the Holder of Director Claims shall participate in distributions to 1st Tier Bond
 23 Claims as provided for in the Amended and Restated Financing Agreement and 1st and 2nd Tier
 24 Indenture.

25 Subordinated Claims are provided for in Class 9, which is an Impaired Class. Holders of
 26 Subordinated Claims shall not receive any distribution on account of such Claims.

27 **IV.**
 28 **SUMMARY OF VOTING PROCESS**

1 **A. Who May Vote to Accept or Reject the Plan.**

2 Generally, holders of allowed claims or equity interests that are “impaired” under a plan
3 of reorganization and who are receiving some cash or property on account of such claims or
4 equity interests are permitted to vote on the plan. A claim is defined by the Bankruptcy Code
5 and the Plan to include a right to payment from a debtor. The Debtor, as a non-profit
6 corporation, has issued no equity interests. In order to vote, a creditor must have an allowed
7 claim. The solicitation of votes on the Plan will be sought only from Holders of Allowed Claims
8 whose Claims are Impaired and who will receive property or rights under the Plan. As explained
9 further below, to be entitled to vote, a Person must be a Holder of a Claim that is both an
10 “Allowed Claim” and “Impaired.”

11 **B. Summary of Voting Requirements.**

12 In order for the Plan to be confirmed, it must be accepted by at least one Impaired Class
13 of Claims, excluding the votes of any Insiders within that Class. A Class of Claims is deemed to
14 have accepted the Plan if and when allowed votes representing at least two-thirds in amount and
15 a majority in number of the Claims of the Class actually voting cast votes in favor of the Plan.

16 Holders of certain Impaired Classes of Claims will not receive or retain anything on
17 account of their Claims. As such, they will be deemed to have voted against the Plan without the
18 need for them to cast votes or receive voting ballots.

19 The Debtor is soliciting votes only from Holders of Allowed Claims in the following four
20 Classes, which are Impaired under the Plan: Class 3 (General Unsecured Claims), Class 4 (1st
21 Tier Bond Secured Claims), Class 5 (1st Tier Bond Unsecured Claims), and Class 8 (Director
22 Claims).

23 The Debtor has the right to supplement this Disclosure Statement as to additional
24 Impaired Classes, if any. The treatment of each Class is described in the Plan and is summarized
25 generally in Articles III and VI of this Disclosure Statement.

26 **A VOTE FOR ACCEPTANCE OF THE PLAN BY HOLDERS OF CLAIMS WHO**
27 **ARE ENTITLED TO VOTE IS MOST IMPORTANT. THE DEBTOR BELIEVES THAT**
28 **THE TREATMENT OF HOLDERS OF EACH OF THE GENERAL UNSECURED**

1 CLAIMS, 1ST TIER BOND SECURED CLAIMS, 1ST TIER BOND UNSECURED
 2 CLAIMS, AND DIRECTOR CLAIMS UNDER THE PLAN IS THE BEST
 3 ALTERNATIVE FOR EACH OF THEM, AND THE DEBTOR RECOMMENDS THAT
 4 THE HOLDERS OF THOSE ALLOWED CLAIMS VOTE IN FAVOR OF THE PLAN.

5 V.

6 **GENERAL INFORMATION ABOUT THE DEBTOR'S BUSINESS, RESTRUCTURING
 EFFORTS AND THE FILING OF THE BANKRUPTCY CASE**

7 A. **The Debtor's Business.**

8 1. **Corporate Background and Structure.**

9 The Las Vegas Monorail System, a public improvement (the "Monorail"), was first
 10 conceived as a joint venture between MGM Grand and Bally's Hotel, which in 1993 first created
 11 a one-mile transportation system linking the two hotels. In 1997, the state of Nevada passed
 12 legislation which authorized a private company to own, operate, and charge fares as a public
 13 Monorail system. On December 2, 1998, as authorized by statute, Clark County granted a
 14 franchise (the "Franchise") to MGM Grand-Bally's Monorail LLC ("MGM-Bally's LLC") to
 15 construct, operate, and maintain the Monorail through December 2, 2048 (as amended, the
 16 "Franchise Agreement").

17 On October 20, 1999, the Franchise Agreement was amended to, among other things,
 18 authorize transfer of the Franchise to a special-purpose Nevada corporation formed for the sole
 19 purpose of developing, acquiring, constructing, operating and improving the Monorail. The
 20 Debtor was incorporated in May 2000 as a Nevada not-for-profit corporation organized for the
 21 purposes set forth in the amended Franchise Agreement. The Debtor was established to finance,
 22 acquire, develop, construct, operate, and maintain the Monorail. In September 2000, upon the
 23 formation of the Debtor, the Debtor acquired the original Monorail system from MGM-Bally's
 24 LLC and commenced extension of the system to its current state of seven stations.

25 The Debtor is a Section 501(c)(4) organization under federal tax law and has been
 26 granted sales/use tax exempt status as a charitable or non-profit organization pursuant to Nevada
 27 Revised Statutes ("NRS") 372.3261. As a nonprofit entity, no part of the Debtor's net earnings
 28 may inure to the benefit of anyone other than the Governor of the State of Nevada on behalf of

1 the State or a designated agency of the State upon dissolution, liquidation, or winding up. The
 2 Debtor thus has no capital stock or equity holders.

3 Upon the Debtor's acquisition of the Monorail from MGM-Bally's LLC, the Franchise
 4 Agreement was assigned to the Debtor on August 8, 2000. The term of the Franchise Agreement
 5 currently extends through December 31, 2107. The Franchise Agreement grants to the Debtor as
 6 the franchisee the Franchise to construct and operate the Monorail, including the exclusive right
 7 to extend the Monorail to McCarran International Airport.

8 **2. Operations.**

9 The Monorail is a state-of-the-art, fully-automated, driverless rail system that runs above
 10 the streets along the east side of Las Vegas Boulevard (a/k/a the "Las Vegas Strip"). It is the
 11 first driverless public monorail system in the world.⁴ The existing operations provide convenient
 12 and cost-effective transportation between its seven stations. The Debtor's business focuses on
 13 making the Monorail an easy and convenient connection to the Las Vegas Strip and the Las
 14 Vegas Convention Center.

15 Though the Debtor benefits from its tax-exempt status as a nonprofit entity, it is the first
 16 privately-owned public transportation system in the nation to be funded solely by fares and
 17 advertising. No other U.S. public transit system finances its operations solely through fare and
 18 advertising revenues. The Debtor receives no governmental financial support or subsidies.

19 The Monorail currently has seven stations along a 3.9-mile route: MGM Grand,
 20 Bally's/Paris Las Vegas; Flamingo/Caesars Palace; Harrah's/Imperial Palace; Las Vegas
 21 Convention Center; Las Vegas Hilton; and the Sahara. It travels the 3.9-mile route in 15 minutes
 22 or less, and reaches speeds of up to 50 miles per hour. It is capable of moving 3,200 passengers
 23 per hour in each direction. The Monorail operates 365 days per year, 19 hours per day during the
 24 week and 20 hours each day Friday through Sunday.

25 The Monorail consistently runs at more than 99 percent operational efficiency. During
 26 the past 4.5 years of full operations, the Monorail has carried more than 40,000,000 riders with a

27 ⁴ The Monorail is an "automated guideway," defined by the Federal Transit Administration as an electric railway of
 28 guided transit vehicles operating without vehicle operators or other crew onboard the vehicles.

1 goal of further improving mobility in what is nationally recognized as one of the most congested
2 corridors in the United States, the Las Vegas Strip corridor. The Monorail carried 6,005,024
3 riders in 2009; 7,602,599 riders in 2008; 7,917,613 riders in 2007; and 7,015,109 in 2006.
4 During large conventions such as the Consumer Electronics Show, the Monorail carries more
5 than 70,000 people into and out of the Las Vegas Convention Center over the course of a four-
6 day event. This is the equivalent of over 23,000 three-passenger taxi trips or over 1,200 55-
7 passenger bus trips.

8 The Monorail ranks as one of the highest in terms of fare revenues per passenger trip
9 among automated guideways and light rail systems, and first when compared to other automated
10 guideways only. Specifically, the Monorail generates more revenue per mile of system than any
11 other automated guideway or light rail system, and is only second in total annual revenue
12 generation to Boston's MBTA system.⁵

13 The Debtor has consistently generated operational profits; however, as explained more
14 fully below, these operational profits have not been sufficient to service its debt and provide for
15 its future required expenditures for replacement and repair of capital assets ("CAPEX"). The
16 Debtor generates revenue from two primary sources. The largest component of the Debtor's
17 revenues is derived from ticket purchases (the "Fare Revenues"). Approximately 263,350 tickets
18 are sold at 42 ticket vending machines (the "TVMs") each month, at which customers generally
19 may pay in cash or coins, or with a debit or credit card. Customers may also purchase tickets
20 online. Customers may purchase a one-way fare for \$5 at a TVM or online; an all-day pass for
21 \$14 at a TVM or \$13 online; or a 3-day pass for \$30 at a TVM or \$28 online, while Las Vegas
22 residents can purchase a daily maximum of two local \$1 one-way tickets at customer service
23 booths located at the Sahara and MGM Grand stations. The average monthly sales from
24 operations are approximately \$2.3 million. The Debtor estimates that its total Fare Revenues for
25 2009 were \$26,986,487. Total Fare Revenues were \$29.7 million for 2008 and \$30.3 million for
26 2007. Through July 31, 2010, the Debtor estimates that it has generated \$12.9 million in total

27
28 ⁵ National Transit Database 2007 Statistics, available at www.ntdprogram.gov.

1 Fare Revenues. For comparison, through July 31, 2009, the Debtor generated \$16.1 million in
2 total Fare Revenues.

3 The other major component of the Debtor's revenue is derived from the sale of
4 advertising space on the Monorail (the "Ad Revenues"). The Debtor estimates that its total Ad
5 Revenues for 2009 were \$353,830. Total Ad Revenues were \$1,377,991 for 2008 and
6 \$2,273,954 for 2007. Through July 31, 2010, the Debtor has generated \$109,693 in total Ad
7 Revenues. For comparison, through July 31, 2009, the Debtor generated \$252,311 in total Ad
8 Revenues.

9 The Debtor generated approximately \$27,409,717 in total revenues for 2009, which
10 consist of Fare Revenues and Ad Revenues along with miscellaneous revenues for vending and
11 concessions. The Debtor generated \$31,097,597 in total revenues in 2008,⁶ and \$31,750,582 in
12 total revenues in 2007.⁷ Through July 31, 2010, the Debtor has generated \$13,018,873 in total
13 revenues. For comparison, through July 31, 2009, the Debtor generated \$16,348,832 in total
14 revenues.

15 In accordance with its organizational documents, each year the Board of Directors of the
16 Debtor (the "Board") adopts a budget which is submitted to the Governor of the State of Nevada
17 for approval. In addition, in accordance with organizational documents, the Debtor is required to
18 have audited financial reports prepared.

19 **3. The Debtor's Prepetition Management Structure.**

20 As a nonprofit company, no person or entity holds an equity interest in the Debtor. The
21 Board is appointed by the Governor of the State of Nevada and is comprised of five members.
22 The current Chairman of the Board is Donald L. "Pat" Shalmy, and the other members of the
23 Board are Bruce L. Woodbury, Marcus "Mike" Sloan, Anthony Santo, and Robert Beers. The
24 Plan proposes that the current members of the Board will continue in place.

25 Mr. Shalmy was first appointed to the Board on January 1, 2000. During his career he

26 ⁶ Source: Debtor's Form 990 (Return of Organization Exempt From Income Tax) for the year 2008; Las Vegas
27 Monorail Company Financial Statements for the Years Ended December 31, 2008 and 2007 and Independent
Auditor's Report ("Auditor's Report"), available at <http://www.lvmonorail.com/corporate/>.

28 ⁷ Auditor's Report.

1 has served as a senior vice president and president of Nevada Power Company, director of
2 government and community relations for Kummer, Kaempfer, Bonner and Renshaw, and
3 president of the Las Vegas Chamber of Commerce, the third largest such chamber in the United
4 States. Mr. Shalmy dedicated over three decades of work to the public sector, culminating as
5 Clark County manager.

6 Mr. Woodbury was appointed to the Board on February 1, 2009. He dedicated nearly 28
7 years to public service as the representative for Clark County Commission District A. Mr.
8 Woodbury served as Chairman of the Regional Transportation Commission Board of
9 Commissioners for more than 16 years, as well as Chairman of the Board of County
10 Commissioners, Big Bend Water District Board of Trustees, and the Clark County Air Quality
11 Management Board. He was a member on the Las Vegas Valley Water District Board of
12 Directors, University Medical Center Board of Trustees, Henderson Chamber of Commerce
13 Board of Directors, and the Las Vegas Springs Preserve. He is a partner with the law firm of
14 Jolley, Urga, Wirth, Woodbury & Standish.

15 Mr. Sloan was appointed to the Board on April 1, 2009. Until his retirement following the
16 acquisition of Mandalay Resort Group by MGM Mirage in 2005, Mr. Sloan was a senior
17 corporate executive with that company for 20 years. He joined Mandalay Resort Group in 1985
18 as Vice President, General Counsel, and Secretary, having primary responsibilities for directing
19 the company's legal department as well as labor and government relations. In addition, Mr.
20 Sloan was actively engaged in the planning, development and construction of the company's
21 numerous new projects, including the Excalibur Hotel and Casino, Luxor Hotel and Casino and
22 the Mandalay Bay Resort. Beginning in 1997, Mr. Sloan gave up day-to-day supervision of the
23 legal department in order to concentrate on the planning and development of the company's
24 premiere property, Mandalay Bay, focusing on the development and location of new
25 entertainment and restaurant venues for the project. Mr. Sloan has been chairman and served on
26 the board of Nevada Resort Association for over 20 years. Prior to his career as gaming
27 executive, Mr. Sloan was elected Las Vegas City Attorney and later served as a Nevada state
28 senator. He also worked as the press secretary for United States Senator Alan Bible, and as a

1 deputy attorney general for the Nevada Gaming Division, providing legal advice for the Nevada
2 Gaming Commission and Nevada Gaming Control Board. He is a founding trustee and past
3 president for the National Association for Gaming Lawyers and past chairman of the Gaming
4 Law Committee of the American Bar Association.

5 Mr. Santo was appointed to the Board on April 1, 2009. He is a 28-year veteran in the
6 gaming industry and is currently consulting in the gaming and hospitality businesses for
7 operational reviews and potential acquisitions. Mr. Santo served in various senior management
8 roles with Caesars Entertainment, and upon its acquisition, Harrah's Entertainment, Inc.
9 Throughout his career, he managed multiple hotel/casino properties. Mr. Santo was appointed as
10 Senior Vice President of Western and Mid-South Regions for Caesars Entertainment, as
11 President of Paris Las Vegas, Bally's Las Vegas, Flamingo Las Vegas, Las Vegas Hilton, Reno
12 Hilton, and Flamingo Reno. He served as Senior Vice President of Operations, Products and
13 Services for Harrah's Entertainment, Inc. where he managed the company's domestic and
14 international operations. Mr. Santo previously served on the boards of Las Vegas Events, the
15 Culinary Training Academy of Las Vegas, UNLV's Harrah Hotel College Alumni Association,
16 the Las Vegas Convention and Visitors Authority, and the Reno-Sparks Convention and Visitors
17 Authority.

18 Mr. Beers was appointed to the Board on April 1, 2009. He is the managing partner for
19 Seale and Beers, CPAs, a PCAOB-registered auditing firm. He is also the chief financial officer
20 for a start-up tequila importer. Previously, he owned and operated Wilson, Beers and Alu, a
21 computer systems company, from 1989 to 2002, when he sold the company to a large regional
22 accounting firm. In 2004, Mr. Beers was elected to a four-year term in the Nevada Senate. Prior
23 to his senate election, Beers served six years as a Nevada assemblyman.

24 Curtis L. Myles, III serves as President and Chief Executive Officer of the Debtor and
25 has served in that capacity since July 18, 2005. Prior to joining the Debtor, Mr. Myles served as
26 Deputy General Manager of the Regional Transportation Commission of Southern Nevada from
27 May 2002 to July 2005; Assistant Director of Aviation for McCarran International Airport from
28 June 1995 to May 2002; Operations Manager and Management Analyst for McCarran

1 International Airport from July 1991 to June 1995; and Sales Manager for Northwest Transport
2 Services from 1986 to 1991. In his capacity as the Debtor's President and Chief Executive
3 Officer, Mr. Myles oversees the Debtor's daily business, operational, and financial affairs. In
4 addition, he is responsible for implementing policies of and actions taken by the Board.

5 Pursuant to an Employment Agreement dated August 20, 2008, Mr. Myles originally
6 received annual compensation of \$346,200, along with employment benefits available to other
7 employees of the Debtor. The Employment Agreement commenced August 21, 2008 and the
8 initial term will end August 20, 2011. After the initial term of employment ends, Mr. Myles'
9 continued employment is at the will of the Board and may terminate at any time thereafter by
10 written notice, unless otherwise agreed to by the parties. As of May 4, 2010, Mr. Myles' annual
11 compensation was voluntarily reduced to \$273,240 in conjunction with a general reduction of
12 salaries for Debtor's employees.

13 **4. The Debtor's Relationship with Bombardier and CAPEX Requirements.**

14 Though the Debtor employs approximately 40 employees, including security personnel,
15 most of the physical operations of the Monorail are conducted by Bombardier Transportation,
16 Inc. ("Bombardier"), with whom the Debtor contracted to operate and maintain the Monorail
17 trains, automatic train controls, and other control subsystems pursuant to a Monorail Operations
18 and Maintenance Agreement dated July 14, 2004 (the "Bombardier Agreement"). Bombardier
19 has more than 35 years of operations and maintenance experience, providing a range of operation
20 and maintenance services for fully automated systems in cities around the world, including New
21 York, Miami, San Francisco, Kuala Lumpur, Beijing, and London.

22 The initial term of the Bombardier Agreement was for 5 years with two 5-year options.
23 In January 2009, Bombardier was awarded the first 5-year option to continue to operate the
24 system. There remains one additional 5-year option, which if exercised, will allow the Debtor to
25 continue the Bombardier Agreement until 2019, at which time a new operation and maintenance
26 agreement will need to be negotiated. The costs of a new contract are unknown, but it is not
27 expected to be less than the cost of the existing Bombardier Agreement.

28 During the year 2008, in accordance with the Bombardier Agreement, the Debtor paid

1 \$16,675,678 to Bombardier for operation and maintenance of the Monorail.⁸ The Debtor paid
 2 approximately \$17,027,307 to Bombardier for operation and maintenance of the Monorail in
 3 2009.

4 While the scope of the Bombardier Agreement includes normal maintenance and repair,
 5 along with some replacement costs which costs are paid pursuant to a Capital Asset Replacement
 6 Program, it does not include CAPEX expenditures. In the case of the Debtor, CAPEX
 7 expenditures include the costs of replacement and repair of train control systems, Monorail
 8 escalators, workshop equipment, communication systems, traction power systems/PDS, platform
 9 doors, guideway elements, Monorail elevators, fare collection equipment, maintenance recovery
 10 vehicles, and the Monorail trains themselves.

11 **B. The Debtor's Prepetition Debt Structure.**

12 In September 2000, the Director of the State of Nevada Department of Business and
 13 Industry (the "Director"), issued tax-exempt bonds (collectively, the "Bonds") for construction
 14 and operation of the Monorail as follows:⁹

15 (a) Pursuant to a Senior Indenture with Wells Fargo Bank, N.A.
 16 ("Wells Fargo") as trustee (the "1st Tier Trustee") dated September 1, 2000 (the "1st and
 17 2nd Tier Indenture"), the Director issued \$352,705,000 in 1st tier current interest bonds
 18 and \$98,743,217.30 in 1st tier capital appreciation bonds (collectively, the "1st Tier
 19 Bonds") to the 1st Tier Trustee on behalf of the beneficiaries under the 1st and 2nd Tier
 20 Indenture (the "1st Tier Bondholders"), payable in part through 2040;

21 (b) Pursuant to the 1st and 2nd Tier Indenture, the Director also issued
 22 \$149,200,000 in 2nd tier current interest bonds (the "2nd Tier Bonds") to Wells Fargo as
 23 2nd tier trustee on behalf of the beneficiaries under the 1st and 2nd Tier Indenture (the
 24 "2nd Tier Bondholders");¹⁰ and

25 ⁸ Debtor's Form 990 (Return of Organization Exempt From Income Tax) for the year 2008.

26 ⁹ However, as more fully explained below, the Bonds are non-recourse to the State of Nevada.

27 ¹⁰ On or about December 20, 2009, the District Court of Hennepin County, Minnesota appointed U.S. Bank, N.A. as
 28 the Co-Trustee of the 2nd Tier Bonds pursuant to the request of Wells Fargo in its *Verified Petition for the
 Appointment of a Co-Trustee and for Instruction in the Administration of a Trust Pursuant to Minn. Stat. § 501B.16.*

(c) Pursuant to a Subordinate Indenture also dated September 1, 2000 (the “3rd Tier Indenture” and collectively with the 1st Tier and 2nd Tier Indenture, the “Indentures”), the Director issued \$48,500,000 in subordinate capital appreciation bonds (the “3rd Tier Bonds”) in favor of Wells Fargo as 3rd tier trustee¹¹ in favor of the beneficiaries thereunder (the “3rd Tier Bondholders” and together with the 1st Tier Bondholders and 2nd Tier Bondholders, the “Bondholders”).

The Bond proceeds were used for partial financing of the acquisition, construction, improvement and equipping of the Monorail as well as for principal and interest payment reserves and a separate reserve in favor of Clark County for the removal of the improvements in the public right-of-way, which reserve account (the “Removal Fund Account”) is in the name of and under the sole control of Clark County. The public right-of-way is only a portion of the 3.9 mile guideway system. There are no funds reserved for the removal of the portion of the guideway not part of the public right-of way. As of November 30, 2009, there was \$7,900,374 in the Removal Fund Account.

The 1st Tier Bonds are special, limited obligations of the Director, and the principal, premium, if any, accreted value, and interest on the 1st Tier Bonds are payable (except to the extent payable from Bond proceeds) solely from and are secured by a pledge of the net revenues to be made under the Financing Agreement after payment of operation and maintenance costs of the Monorail (as more fully discussed below) and prior to the payment of debt service with respect to the 2nd Tier Bonds.

Payment of principal and interest on the 1st Tier Bonds is insured by Ambac Assurance Corporation (“Ambac”). To the extent any 1st Tier Bond payments are not made when due, Ambac will pay such amount upon notice pursuant to an insurance policy (the “1st Tier Bondholders' Insurance Policy”). Additionally, a 1st Tier Surety Reserve Bond (the “Surety Bond”) of \$20,991,807.50 was issued by Ambac to be available for payments on the 1st Tier

_____ (continued)
Wells Fargo and U.S. Bank, N.A. are collectively defined hereafter as the “2nd Tier Trustees.”

¹¹ Law Debenture Trust Company of New York has been appointed as co-trustee of the 3rd Tier Bonds and is collectively defined with Wells Fargo hereafter as the “3rd Tier Trustees.”

1 Bonds to the extent that the Debtor was unable to meet debt service on the 1st Tier Bonds. The
 2 Debtor was unable to meet the full debt service obligations due on July 1, 2009, and
 3 \$3,767,799.27 was drawn on the Surety Bond on July 1, 2009. On January 1, 2010, principal
 4 and interest on the 1st Tier Bonds came due in the amount of \$16,764,971.88. The Debtor was
 5 unable to satisfy the debt service, and on or about January 1, 2010, the entire amount of
 6 \$16,764,971.88 due to the 1st Tier Bondholders was drawn against the Surety Bond.¹² The
 7 remaining balance on the Surety Bond is \$416,305.52.¹³

8 The Director is obligated to reimburse any funds drawn from Surety Bond coverage
 9 pursuant to a Guaranty Agreement (the “Guaranty”), under which the Director granted to Ambac
 10 a security interest securing payment of all amounts due under the Guaranty, “[t]o the extent, but
 11 only to the extent, that the Indenture pledges to the [1st Tier Bondholders] or any Trustee
 12 therefore, or grants a security interest or lien in or on any collateral property, revenue or other
 13 payments in order to secure the [1st Tier Bonds].”

14 Once the Surety Bond is drawn in full, there will be no further reimbursements of funds
 15 to Ambac by the Director on account of the Guaranty. Both the Financing Agreement and 1st
 16 and 2nd Tier Indenture explicitly limit the liability of the Director and the State of Nevada.
 17 Specifically, Section 3.9 of the Financing Agreement provides that “Anything in this Agreement
 18 to the contrary notwithstanding, any obligation the Director may incur in connection with the
 19 undertaking of the Project for the payment of money shall not be deemed to constitute a debt or
 20 general obligation of the Director, the State, or any political subdivision thereof, but shall be
 21 payable solely from the revenues and receipts received by it under this Agreement...” Section
 22 7.01 of the Senior Indenture provides, in part, that “THE BONDHOLDERS SHALL HAVE NO

23 ¹² On or about November 16, 2009, Wells Fargo, without notice to the Debtor, withdrew approximately \$2.6 million
 24 from the Debtor’s accounts at Wells Fargo, including \$1,898,328 from the 1st Tier Debt Service Fund, to insure
 25 payments and indemnifications provided to Wells Fargo and the Director under the Indentures. The 1st Tier Debt
 26 Service Fund was designated for the payment of the 1st Tier debt service obligations due January 1, 2010. Though
 27 Wells Fargo subsequently returned some of the funds, it retained the deposits designated for payment of the 1st Tier
 28 Debt Service Fund.

¹³ The 2nd Tier Bonds are not insured. The Debtor was unable to pay any of the interest in the amount of
 \$3,689,360.07 which came due on the 2nd Tier Bonds on July 1, 2009, and was unable to pay any of the interest in
 the amount of \$5,493,875 which came due on the 2nd Tier Bonds on January 1, 2010. The 3rd Tier Bonds are also
 uninsured.

1 RECURSE AGAINST THE DIRECTOR OR ANY PROPERTY NOW OR HEREAFTER
 2 OWNED BY THE STATE OF NEVADA IN THE EVENT THAT SUCH REVENUES AND
 3 FUNDS ARE INSUFFICIENT TO MAKE SUCH PAYMENTS..." (emphasis in original). The
 4 Amended and Restated Financing Agreement is intended to continue these limitations in their
 5 entirety.

6 The Debtor is not a party to the 1st and 2nd Tier Indenture or the 3rd Tier Indenture, the
 7 Guaranty, or the 1st Tier Bondholders' Insurance Policy, but is obligated under the Financing
 8 Agreement, dated September 1, 2000 (the "Financing Agreement"), between the Debtor and the
 9 Director, which was concurrently assigned to Wells Fargo as security for payment under the
 10 Indentures. Under the Financing Agreement, the security interest granted to the Director is
 11 limited to the following: (i) Contract rights of the Debtor under the Purchase Agreement, the
 12 Design-Build Agreement, the Operation and Maintenance Agreement, the Management
 13 Agreement, and the Franchise Agreement, each as defined in the Franchise Agreement (the
 14 "Project Agreements"); (ii) Any "Net Project Revenues," defined in the 1st and 2nd Tier
 15 Indenture as "Project Revenues" minus "Operation and Maintenance Costs,"¹⁴ and (iii) All
 16 amounts held in any funds or accounts created under the Indentures, all money and funds earned
 17 or accrued on any deposit of Net Project Revenues, and related collateral serving as proceeds of
 18 the foregoing. The Director assigned most of its rights under the Financing Agreement to Wells
 19 Fargo as security for payment under the Indentures, reserving its right to reimbursement of
 20 expenses and indemnification.

21 _____
 22 ¹⁴ Project Revenues are defined in the 1st and 2nd Tier Indenture as:

23 all gross income and revenue received or receivable by [the Debtor] from the ownership,
 24 operation or use of the Project, including all fees and charges received by [the Debtor] for the use
 25 of the Project, including but not limited to farebox revenues, business interruption insurance,
 26 advertising revenues, licensing fees, rent, sponsorship income, other contractual revenues, interest
 27 earnings on funds held hereunder or by [the Debtor] (excluding the Construction Fund,
 28 Contingency Fund, and Rebate Fund) liquidated damages, payments under performance or
 completion bonds or under the Project Agreements, and all other income and revenue howsoever
 derived by [the Debtor] from the ownership, operation or use of the Project or dedicated by [the
 Debtor] or any other person to support the Project, and such other revenues as may be designated
 by [the Debtor] in the Agreement, but excluding in all cases any refundable deposits made to
 establish credit and advances or contributions in aid of construction received during such Fiscal
 Year.

1 Under the 1st and 2nd Tier Indenture, the Director pledged to Wells Fargo all Revenues
 2 and other amounts held under any accounts created pursuant to the 1st and 2nd Tier Indenture to
 3 secure the payment of principal and interest on the 1st Tier Bonds and 2nd Tier Bonds.¹⁵

4 “Revenues” are defined in the Senior Indenture as

5 all moneys received by the Director or the Trustee for the account of the
 6 Director pursuant or with respect to the Agreement for the benefit of the
 7 Senior Bonds, including, without limiting the generality of the foregoing,
 8 Senior Loan Repayments (including both timely and delinquent
 9 payments, any late charges, and paid from whatever source),
 10 prepayments, and all interest, profits or other income derived from the
 11 investment of amounts in any fund or account established pursuant to this
 Senior Indenture, but not including any Administrative Fees and
 Expenses or any moneys paid for deposit into the Rebate Fund.
 Revenues do not include Project Revenues deposited with the Trustee
 pursuant to the last paragraph of Section 4.1(b) of the Financing
 Agreement until such moneys are used to make a Senior Loan
 Repayment.

12 As such, the 1st Tier Bonds are secured by a pledge of and a first lien on Revenues. The
 13 2nd Tier Bonds have a junior and subordinate pledge and lien. The 3rd Tier Indenture contains a
 14 similar pledge, setting forth a lien on revenues held specifically for the benefit of the 3rd Tier
 15 Bonds, which lien is subordinate to the liens securing the 1st Tier Bonds and 2nd Tier Bonds.

16 Pursuant to each of the Indentures, under no circumstance is the Director obligated to pay
 17 principal or interest due on the 1st and 2nd Tier Bonds or any other related costs upon
 18 acceleration, redemption, or otherwise, except from Revenues and funds pledged under the 1st
 19 and 2nd Tier Indenture. Bondholders have no recourse against the Director or property owned
 20 by the State of Nevada. Thus, while the Director has an absolute and unconditional obligation to
 21 pay principal and interest due on the 1st and 2nd Tier Bonds, such obligation extends only to
 22 payment out of Revenues and other pledged assets.

23 The Debtor has not pledged as security to the Director, the Trustee, Ambac or any other
 24 party the equipment or other hard assets of the Monorail, including the stations and tracks.
 25 Further, the Debtor has never granted a security interest in accounts receivable or in contract
 26 rights other than those specifically described in the Financing Agreement.

27
 28 ¹⁵ Excepting the Indemnification Account and the Rebate Fund (as defined in the Senior Indenture).

1 The Amended and Restated Financing Agreement will provide for a security interest in
2 favor of the Director to secure the Amended and Restated 1st Tier Note in the following:

3 (i) Contract rights of the Debtor under the Operation and
4 Maintenance Agreement and the Franchise Agreement, each as defined in
5 the Amended and Restated Franchise Agreement (the "Project
6 Agreements"); and

7 (ii) Any "Net Project Revenues," defined in the 1st and 2nd Tier
8 Indenture as "Project Revenues" minus "Operation and Maintenance
9 Costs generated after the Effective Date.

10 **C. Events Leading to the Bankruptcy Case.**

11 **1. Financial Performance.**

12 The three individual drivers of revenue of the Monorail are Las Vegas visitor volume, the
13 Monorail's market share of visitors (the percentage of visitors who use the Monorail) and fare
14 yield (revenue per individual passenger). The revenue drivers with the greatest impact on
15 incremental cash flow are visitor volume and market share, both of which are generally out of
16 the control of the Monorail. The revenue driver most controllable by the Monorail is fare yield,
17 which has the least impact on cash flow.

18 The Debtor achieved operational profits in 2006 and has remained profitable at an
19 operational level since that time. The Debtor's revenues are sufficient to satisfy all costs of
20 operation and maintenance of the Monorail. The Debtor's recent operational performance has
21 been as follows:
22
23
24
25
26
27
28

	Year Ended 12-31-07 ¹⁶	Year Ended 12-31-08 ¹⁷	Year Ended 12-31-2009 ¹⁸	7-31-10 Year to Date ¹⁹
Program Revenues	\$31,750,582	\$31,097,597	\$27,409,717	\$13,010,726
Fare Revenues	\$29,446,783	\$29,678,753	\$26,990,995	\$12,901,033
Ad Revenues	\$2,304,799	\$1,418,844	\$424,443	\$109,693
Investment Income	\$4,203,774	\$2,208,294	\$227,588	\$0
Miscellaneous Income	\$630,333	\$75,775	\$0	\$8,147
Total Revenues	\$36,584,689	\$33,381,666	\$27,643,026	\$13,018,873
Wages, Compensation, Salary, and Employment Benefits	\$2,304,542	\$3,063,621	\$1,444,522	\$731,145
Bombardier Transportation, Inc.	\$15,322,237	\$16,675,678	\$16,954,878	\$8,455,271
Other Operational Expenses	\$6,655,406	\$5,422,131	\$4,817,490	\$3,760,784
Total Operational Costs and Expenses	\$24,282,185	\$25,161,430	\$23,216,891	\$12,947,201
Net Income From Operations ²⁰	\$12,302,504	\$8,220,236	\$3,853,427	\$71,672

Under the economic circumstances prevailing at the time of the formation of the Debtor and the incurrence of the debt obligations described above, forecasts indicated that the Debtor would be able to generate an operating profit (net cash flow) sufficient to operate the Monorail and service the Bonds. However, these projections proved wrong and ridership and resulting revenues as well as advertising revenues never reached projected levels. While the Monorail generates net positive cash flow, it has been insufficient and is projected to remain insufficient to meet both the Debtor's existing debt service requirements and CAPEX reserves necessary to fund CAPEX needs beginning in 2019.

Beginning in 2008, the economy in the United States began to sharply decline, not only

¹⁶ Source: Debtor's Form 990 (Return of Organization Exempt From Income Tax) for the year 2007; Auditor's Report.

¹⁷ Source: Debtor's Form 990 (Return of Organization Exempt From Income Tax) for the year 2008; Auditor's Report.

¹⁸ Source: Las Vegas Monorail Company Financial Statements for the Years Ended December 31, 2009 and 2008 and Independent Auditor's Report.

¹⁹ These figures are estimated and derived from monthly operating reports.

²⁰ Net of depreciation.

1 in the hotel and gaming industry, but throughout virtually every business sector. This severe
 2 world-wide recession had a much more dramatic impact on the Las Vegas economy given its
 3 reliance on the hotel, gaming and convention business. The Debtor was sharply impacted by the
 4 downturn and contraction in southern Nevada's core tourism industry. Through the first six
 5 months of 2009, ridership was down 24.9% compared to the same period of 2008. Though the
 6 Monorail carried 7,602,599 riders in 2008, it carried only approximately 6,005,000 riders during
 7 2009, substantially less than preceding years and substantially less than projected, which
 8 generated approximately \$27,409,717 in revenues, resulting in less than \$5,000,000 net cash flow
 9 (or operating profit, excluding depreciation expense). Ignoring reserves for CAPEX,
 10 approximately \$34,000,000 is required to maintain debt service each year, far exceeding the
 11 operating profits.

12 Through the first seven months of 2010, ridership was down 15.1 percent compared to
 13 the same period of 2009. The Monorail carried 3,071,251 riders during the first seven months of
 14 2010, compared to approximately 3,616,778 riders during the same period of 2009. Both figures
 15 are substantially less than preceding years and substantially less than projected. The Monorail
 16 has generated approximately \$13,018,873 in revenues in 2010 through July 31, 2010, resulting
 17 in approximately \$71,672 net operating income.

18 Data reported by the Las Vegas Convention and Visitor's Authority confirms that the
 19 cyclical pattern of visitor volume marked a considerable decline in late 2008 and 2009.²¹
 20 Compounding the effects of low visitor volume on ridership is the reduced level of convention
 21 attendance.²² To cut costs, firms have downsized, relocated, or cancelled conventions. As a
 22 result, 2009 experienced significantly less convention attendance, cutting away a key
 23 demographic of the Monorail's customers. The trend has continued through the first half of
 24 2010.

25 In sum, while the Monorail's financial problems existed from the beginning of its

26 ²¹ The Las Vegas Monorail Ridership Study concluded that 97% of the Monorail's riders are visitors. Las Vegas
 27 Monorail Ridership Study, GLS Research, March 2006. See Year-To-Date Executive Summaries for 2005, 2006,
 2007, 2008, and 2009, available at <http://www.lvcva.com/press/statistics-facts/index.jsp>.

28 ²² See id.

operations given the significantly lower than projected ridership and farebox and advertising revenues, the problems were exacerbated due to declining tourism and the consequent decrease in hotel and Convention Center bookings, and the number of riders on the Monorail has not met projections formed prior to the economic collapse. As the projections (as discussed below) indicate, as the Las Vegas economy improves (specifically with regard to tourism and convention business), it is anticipated that the Monorail revenues will improve.

2. Economic Pressures and Requirements.

Both the Debtor and Conway, Del Genio, Gries & Co., LLC ("CDG")²³ (prior to its termination) have prepared projections of revenue and expenses for 2010 through 2040, and each contain analyses of the Debtor's CAPEX requirements from 2012 through 2040.²⁴ CDG's CAPEX analysis determined that the Monorail will require \$362,865,726 in 2009 Dollars (without regard to inflation) for CAPEX from 2012 through 2040 (the "CDG CAPEX Projection"). The Debtor requested that Bombardier also analyze CAPEX requirements from 2012 through 2040. This analysis determined that the Monorail will require \$261,010,819 in 2009 Dollars (without regard to inflation) for CAPEX from 2012 through 2040 (the "Bombardier CAPEX Projection," and collectively with the CDG CAPEX Projection, the "CAPEX Projections").

Both CAPEX Projections show that the first significant CAPEX will occur in 2019, fifteen years following the commencement of the Monorail's operations. The CDG CAPEX Projection determined that an initial CAPEX investment of \$77,459,732 will be required in 2019 alone, for full replacement of the Debtor's train control systems, communications equipment, fare collection equipment, and platform doors.

²³ On or about April 24, 2008, in connection with the potential restructuring of the Debtor and in consideration for a forbearance, Ambac demanded that the Board retain CDG as restructuring advisor. Upon its retention, CDG appointed Michael Monaco ("Monaco") as the Debtor's Chief Restructuring Officer ("CRO"). In his capacity as restructuring officer, Monaco was responsible for considering, evaluating and negotiating restructuring proposals and any aspect thereof with respect to the Debtor, making recommendations to the Board regarding the restructuring, and approving any changes to the Debtor's capital expenditures budget. In the course of its engagement, CDG prepared revenue and expense projections as well as projections regarding the future capital expenditure needs of the Monorail.

²⁴ This coincides with the final maturity date of the 1st Tier Bonds.

1 The Bombardier CAPEX Projection determined than an initial CAPEX expenditure of
2 \$23,060,266 will be required in 2019 for full replacement of the Debtor's fare collection
3 equipment and platform doors. Under the Bombardier CAPEX Projection, the next significant
4 CAPEX requirement would occur in 2024, when the train control system and communication
5 system would be fully replaced at a cost of \$52,647,684.

6 The CDG CAPEX Projection determined that the remaining bulk of the CAPEX
7 requirements would occur between 2029 and 2034, when the Monorail trains would have to be
8 replaced, along with significant other expenditures in 2034 for replacement of the traction power
9 systems/PDS, train control systems, communication systems, guideway elements, fare collection
10 equipment, and platform doors, for a total cost during the period of 2029-2034 of \$245,047,396.

11 By contrast, the Bombardier CAPEX Projection determined that the remaining bulk of
12 the CAPEX requirements would occur between 2034 and 2037, when the Monorail trains would
13 have to be replaced, along with significant other expenditures during 2034-2036 for replacement
14 of the traction power systems, guideway elements, fare collection equipment, and platform
15 doors, for a total cost during the period of 2034-2037 of \$177,802,869.

16 Though the Bombardier CAPEX Projection and the CDG CAPEX Projection differ
17 substantially with respect to the cost of replacement of the train control systems, Monorail
18 escalators, and workshop equipment, both CAPEX Projections agree that the CAPEX
19 requirements occur in large increments approximately every ten (10) years, necessitating the
20 accumulation of cash reserves for CAPEX and leaving little available for debt service. The
21 alternative to accumulating these cash reserves will be equipment obsolescence and failure
22 resulting in the premature cessation of operations by 2019, depending upon which CAPEX
23 Projection is considered.

24 Even without considering the Debtor's CAPEX requirements, increases in individual
25 drivers of revenue necessary to generate sufficient cash to meet the existing debt service
26 obligations is unattainable. Under the Debtor's analysis, in order to satisfy these debt obligations
27 in 2010, the Debtor would require an increase of 120% in visitor volume, 118% in market share,
28 and 118% in fare yield. In 2010 alone, the total debt service obligation is \$37,387,694, of which

1 \$26,399,944 is for service on the 1st Tier Bonds. By contrast, the Debtor is projected to have net
 2 operating revenue of only \$6,003,400 under its projections, and only \$14,107,485 in net
 3 operating revenue under CDG's projections.²⁵ Under both scenarios, these revenue shortfalls are
 4 projected to continue until at least the early 2030s, after significant CAPEX investments are
 5 required to have been made.

6 As a result of the foregoing analysis, the Debtor has come to the following conclusions:

7 (a) Net cash flow from the existing Monorail will never be sufficient to
 8 service the present debt service on the Bonds;

9 (b) Using all available net cash flow for 2010 through 2019 to make partial
 10 payments on the Bonds will result in the Debtor having no money available to meet its
 11 CAPEX needs beginning in 2019, regardless of which CAPEX Projection is used; and

12 (c) Restructuring the debt service on the 1st Tier Bonds and eliminating the
 13 2nd Tier Bonds and 3rd Tier Bonds is necessary to allow the Debtor to meet its CAPEX
 14 needs and allow it to operate for the foreseeable future.

15 **3. Default.**

16 Pursuant to the Financing Agreement, the Debtor is obligated to make certain Senior
 17 Loan Repayments, as defined therein, sufficient to fund debt service on the Bonds and replenish
 18 the Debt Service Reserve Fund. Specifically, the Debtor is required to transfer sums before the
 19 last business day of each month to the 1st Tier Debt Service Fund and the 2nd Tier Debt Service
 20 Fund in an amount sufficient to satisfy the then-due principal and interest on the 1st Tier Bonds
 21 and the 2nd Tier Bonds, respectively, in compliance with the Financing Agreement.

22 The Debtor was unable to transfer sufficient sums to satisfy the Senior Loan Repayments
 23 in December 2007, and consequently, on January 2, 2008, there were insufficient amounts
 24 available in the 1st Tier Debt Service Fund and the 2nd Tier Debt Service Fund to pay all
 25 amounts of principal and interest then due. The Debtor was also unable to make sufficient
 26 payments to satisfy the requirements of the Financing Agreement to fund debt service reserves

27 ²⁵ As indicated by actual net operating revenue results through July 31, 2010, the CDG projection was unrealistic
 28 and the actual results will be substantially closer to the Debtor's projection.

1 and replenish the Debt Service Reserve Funds.

2 On February 11, 2008, Wells Fargo sent a Notice of Events of Default to the Debtor.
3 Also on February 11, 2008, Wells Fargo sent its Notice of Events of Default to Holders of
4 Director of the State of Nevada Department of Business and Industry Las Vegas Monorail
5 Project Revenue Bonds 1st Tier Series 2000 and 2nd Tier Series 2000, notifying the Bondholders
6 of the default. The Debtor has not cured the above-described default, and from December 2007
7 to the present, has not raised sufficient revenues to comply with the terms of the Financing
8 Agreement.

9 On or about July 17, 2008, the Debtor entered into a forbearance agreement with Wells
10 Fargo and Ambac (the "Forbearance Agreement"). On or about October 31, 2008, the Debtor
11 entered into an Amended and Restated Forbearance Agreement with Wells Fargo and Ambac
12 pursuant to which Wells Fargo and Ambac agreed to continue the forbearance of the exercise of
13 their rights and remedies until January 31, 2009. The Amended and Restated Forbearance
14 Agreement was subsequently extended to May 31, 2009, and then again to June 30, 2009. The
15 Amended and Restated Forbearance Agreement expired on June 30, 2009, and no other
16 forbearance agreement was executed.

17 In October of 2009, the Debtor retained the services of Alvarez & Marsal as financial
18 advisors to assist in evaluating financial and strategic alternatives, including preparation of
19 analyses of the Debtor's alternatives with respect to debt restructuring, debt refinancing,
20 divestitures, or reorganization, the Debtor's debt service capacity and long-term financing needs,
21 and the Debtor's business plan, operating and capital expenditures budgets, loan agreements and
22 bond indentures, and multi-year financial projections under various operating scenarios.

23 **4. Uncertainty as to Access to Operating Funds.**

24 As a result of the inability of the Debtor to satisfy its debt service obligations, the Debtor
25 was required to transfer all of its Project Revenues to Wells Fargo for deposit in the Revenue
26 Fund maintained at Wells Fargo (the "Revenue Fund"), pursuant to the Financing Agreement.
27 Also pursuant to the Financing Agreement, Wells Fargo is required to pay from the Revenue
28 Fund all payments permitted or required to be paid for operation and maintenance costs ("O&M

1 Costs”) upon written direction of the Debtor.

2 As of the Petition Date, the Debtor had approximately \$226,346.06 held in accounts with
3 Wells Fargo. As of the Petition Date, the Debtor had a balance in the BofA Account of
4 approximately \$971,041.52, an estimated \$64,594 in coin inventory on hand with Brinks, U.S.
5 (“Brinks”), and approximately \$162,209.95 in undeposited TVM cash receipts (part of which
6 must remain in the TVMs to make change) and \$650 in customer service booth receipts, and an
7 estimated \$30,000 in TVM credit receipts in process at Merchant Bank. The BofA Account is
8 not subject to any depository control agreement.

9 **5. Restructuring Goals.**

10 The Debtor believes that the Monorail plays a vital role in meeting the transportation
11 needs of Clark County, Nevada and specifically the Las Vegas Strip corridor. As previously
12 discussed, the Monorail is an integral factor in relieving congestion in the Las Vegas Strip
13 Corridor while also being one of the most “green” public transportation systems in the United
14 States.

15 While the initial projections and expectations for the Monorail were flawed, that does not
16 mean that the Monorail cannot be restructured so that it can meet its CAPEX needs while
17 providing some payment to the 1st Tier Bondholders. The alternative is the Monorail literally
18 ceasing service no later than 2019.

19 **D. Significant Events During the Bankruptcy Case.**

20 The Debtor has operated its business as debtor-in-possession. The Bankruptcy Court has
21 certain supervisory powers over the operations of the Debtor during the pendency of the
22 Bankruptcy Case. These powers are generally limited to reviewing and ruling on any objections
23 raised by a party-in-interest to business operations or proposed transactions of the Debtor.
24 Except as otherwise authorized by the Bankruptcy Court, the Debtor is required to give notice of
25 any transactions not in the ordinary course of business and of the compromise of any controversy
26 to parties-in-interest who request such notice. In addition, the Bankruptcy Court supervises the
27 employment of attorneys, accountants and other professionals.

28 **1. First Day Motions.**

1 Concurrently with the filing of the Petition, the Debtor filed various First Day Motions
2 designed to assist the Debtor in making a smooth transition into Chapter 11, including:

3 a. Emergency Application for Order Authorizing Maintenance of Prepetition
4 Cash Management System and Maintenance of Prepetition Bank Accounts [ECF 30];

5 b. Emergency Motion Pursuant to 11 U.S.C. §§ 105(a) and 366 for an Order
6 Determining That Adequate Assurance Has Been Provided to Utility Companies [ECF
7 31];

8 c. Emergency Application for Order Permitting Debtor to Honor Prepetition
9 Ticket Purchases and Refunds [ECF 32];

10 d. Emergency Motion for Order (i) Authorizing the Debtor to Pay Wages,
11 Salaries, benefits, Reimbursable Business Expenses and Other Employee Obligations,
12 and (ii) Authorizing and Directing Financial Institutions to Honor and Process Checks
13 and Transfers Related to Such Obligations [ECF 41]; and

14 e. Emergency Motion for Entry of an Interim Order Pursuant to Bankruptcy
15 Rule 4001(b) and LR 4001(b): (1) Initially Determining Extent of Cash Collateral and
16 Authorizing Interim Use of Cash Collateral by Debtor; and (2) Scheduling a Final
17 Hearing to Determine Extent of Cash Collateral and Authorizing Use of Cash Collateral
18 by Debtor (the "Cash Collateral Motion") [ECF 49].

19 These First Day Motions were heard on January 19, 2010, with the final hearing on the
20 Cash Collateral Motion occurring on February 17, 2010, as more fully discussed below. The
21 First Day Motions were approved, and corresponding orders were subsequently entered by the
22 Bankruptcy Court.

23 **2. Other Significant Motions and Post-Petition Events.**

24 a. Retention and Employment of Professionals.

25 Various applications were filed for employment of professionals in connection with the
26 Bankruptcy Case. Such applications include:

27 i. Application for Order Approving Employment of Gordon Silver as
28 Attorneys for Debtor [ECF 106];

1 ii. Application for Order Approving Employment of Jones Vargas as Special
2 Counsel to Debtor [ECF. 127];

3 iii. Application for Order Authorizing the Employment of Alvarez & Marsal
4 as Financial and Restructuring Advisor to Debtor [ECF. 129];

5 iv. Application for Order Approving Employment of Kafoury, Armstrong &
6 Co. as Auditors for Debtor [ECF 271]; and

7 v. Application for Order Approving Employment of Littler Mendelson, P.C.
8 as Special Counsel to Debtor [ECF 388].

9 Limited objections to the first three employment applications were filed by the Office of
10 the United States Trustee, and a limited objection to the application for employment of Gordon
11 Silver was filed by Ambac; each limited objection sought additional disclosures with respect to
12 the proposed employment. Each of the foregoing applications was subsequently heard and
13 considered by the Bankruptcy Court. The Bankruptcy Court approved the applications and
14 corresponding orders were subsequently entered by the Bankruptcy Court.

15 On February 25, 2010, the Debtor also filed Debtor's Motion for Administrative Order
16 Establishing Procedures for Interim Monthly Compensation and Reimbursement of Expenses of
17 Professionals [ECF 240]. On April 7, 2010, Wells Fargo filed a limited opposition and Ambac
18 filed an opposition to the motion. On April 8, 2010, the Director filed a limited opposition to the
19 motion. On April 26, 2010, the Bankruptcy Court entered an order approving the motion, setting
20 forth procedures for the interim monthly compensation of professionals in the Bankruptcy Case.

21 b. Motion to Dismiss.

22 On January 13, 2010, Ambac filed its Motion of Ambac Assurance Corporation for
23 Dismissal of Chapter 11 Proceeding Pursuant to 28 U.S.C. §1334 and Sections 109(d) and
24 1112(b) of the Bankruptcy Code (the "Dismissal Motion") [ECF 8], which sought dismissal of
25 the Bankruptcy Case on the alleged grounds that the Debtor is ineligible to be a debtor under
26 Chapter 11. The Dismissal Motion was opposed by both the Debtor and the Director. On April
27 26, 2010, the Bankruptcy Court entered an order denying the Dismissal Motion. On May 10,

28

1 2010, Ambac filed a notice of appeal and motion for leave to appeal the order, which are
2 currently pending.

3 c. Objection to Use of Cash Collateral.

4 On January 14, 2010, Wells Fargo filed the Indenture Trustee's Objection to Use of Cash
5 Collateral and Motion for Adequate Protection Pursuant to 11 U.S.C. §§ 361, 363(c)(2) and
6 363(e) (the "Cash Collateral Objection") [ECF 13], which objected to the Debtor's use of cash
7 collateral without first providing adequate protection. The Cash Collateral Objection was joined
8 by Ambac, while responses were filed by Bombardier and the Debtor. On January 22, 2010, an
9 interim order approving the Cash Collateral Motion was entered, authorizing the Debtor to use
10 cash collateral on an interim basis.

11 Thereafter, pursuant to the Bankruptcy Court's direction at hearing on February 17, 2010,
12 on February 19, 2010, Wells Fargo and U.S. Bank filed their Trustees' Adequate Protection
13 Request (the "Adequate Protection Request") [ECF 211]. In response, on February 19, 2010, the
14 Debtor filed Debtor's Offer of Adequate Protection to Certain Creditors [ECF 214], submitting a
15 proposed adequate protection order.

16 On April 26, 2010, the Bankruptcy Court entered an Opinion on Cash Collateral Motions
17 which determined that Wells Fargo holds a security interest in accounts maintained by Wells
18 Fargo at the time of filing, but not in the BofA account or cash held by Brinks collected from the
19 Debtor's ticket vending machines. The Bankruptcy Court separately entered an Order on
20 Adequate Protection and Setting Status Conference which set forth adequate protection and
21 procedures for the Debtors' use of Wells Fargo's cash collateral.

22 d. Other Motions.

23 On March 22, 2010, the Debtor filed Debtor's Motion to: (i) Authorize Continued
24 Purchasing and Services Relationships with Access Distribution, LLC and (ii) Authorize the
25 Debtor to Pay Related Prepetition Obligations [ECF 280], seeking authority to pay a critical
26 vendor invoice and maintain a business relationship with a magnetic ticket producer. On April 9,
27 2010, the Bankruptcy Court entered an order approving the motion.

On March 24, 2010, the Debtor filed its Motion to Assume Nonresidential Real Property Lease (Maintenance Yard Lease) [ECF 295]. On April 30, 2010, the Bankruptcy Court entered an order approving the motion, allowing the Debtor to assume its maintenance yard lease with respect to the Monorail.

On June 9, 2010, the Debtor filed its Motion to Reject Nonresidential Real Property Lease [ECF 438], seeking to reject its existing administrative and business office lease. On the same date, the Debtor also filed a Motion for Order Authorizing New Office Lease [ECF 439] for entry of an order approving a lease of office space to replace its existing lease. On June 29, 2010, the Bankruptcy Court entered orders approving both motions, serving to reduce the Debtor's monthly office space costs by approximately \$30,000 per month.

On June 9, 2010, the Debtor filed Debtor's Motion (1) to Reject Network Services Agreement and Satellite Services Agreement with Heartland Payment Systems, Inc. and (2) for Order Authorizing New Payment Processing Contract [ECF 445]. On June 29, 2010, the Bankruptcy Court entered an order approving this motion, allowing the Debtor to change payment processing service providers at a reduced cost while remaining compliant with credit card security standards.

VI. DESCRIPTION OF THE PLAN

A. Overview of Chapter 11.

Chapter 11 is the principal business reorganization chapter of the Bankruptcy Code. Under Chapter 11, a debtor is authorized to reorganize its business for the benefit of itself, its creditors, and equity interest holders. The commencement of a Chapter 11 case creates an estate that is comprised of all of the legal and equitable interests of the debtor as of the filing date. The Bankruptcy Code provides that the debtor may continue to operate its business and remain in possession of its property as a "debtor-in-possession."

The consummation of a plan of reorganization is the principal objective of a Chapter 11 case. A plan of reorganization sets forth the means for satisfying claims against, and equity interests in, a debtor. Confirmation of a plan of reorganization by the bankruptcy court makes

1 the plan binding upon the debtor, any issuer of securities under the plan, any person acquiring
2 property under the plan, and any creditor of, or equity interest holder in, the debtor, regardless of
3 whether such creditor or equity interest holder (i) is impaired under, or has accepted, the plan or
4 (ii) receives or retains any property under the plan. Subject to certain limited exceptions, and
5 other than as provided in the plan itself or the bankruptcy court's confirmation order, the
6 confirmation order discharges the debtor from any debt that arose prior to the date of
7 confirmation of the plan and substitutes the obligations specified under the confirmed plan.

8 A Chapter 11 plan may specify that the legal, contractual and equitable rights of the
9 holders of claims or interests in classes are to remain unaltered by the reorganization effectuated
10 by the plan. Such classes are referred to as "unimpaired" and, because of such favorable
11 treatment, are deemed to accept the plan. Accordingly, it is not necessary to solicit votes from
12 the holders of claims or equity interests in such classes. A Chapter 11 plan also may specify that
13 certain classes will not receive any distribution of property or retain any claim against, or equity
14 interest in, a debtor. Such classes are deemed not to accept the plan and, therefore, need not be
15 solicited to vote on the plan. Any classes that would receive a distribution of property under the
16 plan, but are not unimpaired, will be solicited to vote to accept or reject the plan.

17 Section 1123 of the Bankruptcy Code provides that a plan of reorganization shall classify
18 the claims of a debtor's creditors and equity interest holders. In compliance therewith, the Plan
19 divides Claims into various Classes and sets forth the treatment for each Class. The Debtor is
20 also required under Section 1122 of the Bankruptcy Code to classify Claims into Classes that
21 contain Claims that are substantially similar to the other Claims in such respective Classes. The
22 Debtor believes that the Plan has classified all Claims in compliance with the provisions of
23 Section 1122 of the Bankruptcy Code, but it is possible that a Holder of a Claim will challenge
24 the Plan's classifications and that the Bankruptcy Court will find that different classifications are
25 required in order for the Plan to be confirmed. In such event, the Debtor intends, to the extent
26 permitted by the Bankruptcy Court, to make reasonable modifications of the classifications under
27 the Plan to permit confirmation and to use the Plan acceptances received in this solicitation for
28 the purpose of obtaining the approval of the reconstituted Class or Classes of which the

1 accepting Holders are ultimately deemed members. Any such reclassification could adversely
 2 affect the Class in which such Holder was initially a member, or any other Class, by changing
 3 the composition of such Class and the vote required of that Class for approval of the Plan.

4 The Debtor (and its respective Affiliates, agents, directors, officers, employees, advisors
 5 and attorneys) has, and upon confirmation of the Plan will be deemed to have, participated in
 6 good faith and in compliance with the applicable provisions of the Bankruptcy Code with regard
 7 to the distributions under the Plan, and therefore is not, and on account of such distributions will
 8 not be, liable at any time for the violation of any applicable law, rule or regulation governing the
 9 solicitation of acceptances or rejections of the Plan or such distributions made pursuant to the
 10 Plan.

11 Other than as specifically provided in the Plan, the treatment under the Plan of each
 12 Claim will be in full satisfaction, settlement, release and discharge of all Claims. The Debtor
 13 will make all payments and other distributions under the Plan, unless otherwise specified.

14 **B. Treatment of Unclassified Claims under the Plan.**

15 **1. Treatment of Administrative Claims.**

16 Each Holder of an Allowed Administrative Claim shall be paid in full and final
 17 satisfaction of such Claim by Reorganized LVMC (or otherwise satisfied in accordance with its
 18 terms), upon the latest of: (i) the Effective Date or as soon thereafter as practicable; (ii) such
 19 date as may be fixed by the Bankruptcy Court; (iii) the first Business Day following the
 20 fourteenth (14th) day after such Claim is Allowed or as soon thereafter as practicable; (iv) the
 21 date such Claim becomes due by its terms; and (v) such date as is agreed to by the Holder of
 22 such Claim and the Debtor or Reorganized LVMC.

23 **2. Treatment of Priority Tax Claims.**

24 Each Holder of an Allowed Priority Tax Claim, if any, will, in full and final satisfaction
 25 of such Claim, be paid in full (or be treated in compliance with Section 1129(a)(9)(C) of the
 26 Bankruptcy Code) by Reorganized LVMC on the later of (i) the Effective Date or as soon
 27 thereafter as practicable; (ii) such date as may be fixed by the Bankruptcy Court; (iii) the first
 28 Business Day following the fourteenth (14th) day after the date on which an order allowing such

1 Claim becomes a Final Order; or (iv) such date as is agreed to by the Holder of such Claim and
2 the Debtor or Reorganized LVMC.

3 **C. Classification and Treatment of Claims under the Plan.**

4 **1. Treatment of Class 1 (Other Priority Claims).**

5 Each Allowed Other Priority Claim, if any, shall, in full and final satisfaction of such
6 Claim, be paid in full in Cash by Reorganized LVMC upon the latest of: (i) the Effective Date or
7 as soon thereafter as practicable; (ii) such date as may be fixed by the Bankruptcy Court; (iii) the
8 first Business Day following the fourteenth (14th) day after such Claim is Allowed; and (iv) such
9 date as agreed upon by the Holder of such Claim and the Debtor or the Reorganized LVMC.
10 Holders of Claims in Class 1 are Unimpaired under the Plan, deemed to have accepted the Plan
11 pursuant to Section 1126(f) of the Bankruptcy Code, and are not entitled to vote on the Plan.
12 The Debtor believes that Allowed Other Priority Claims are approximately \$1,800.

13 **2. Treatment of Class 2 (Other Secured Claims).**

14 Each Allowed Other Secured Claim, if any, shall, in full and final satisfaction of such
15 Claim, be paid in full in Cash or otherwise left Unimpaired by the Debtor or Reorganized
16 LVMC, as the case may be, upon the latest of: (i) the Effective Date or as soon thereafter as
17 practicable; (ii) such date as may be fixed by the Bankruptcy Court; (iii) the first Business Day
18 following the fourteenth (14th) day after such Claim is Allowed; and (iv) such date as agreed
19 upon by the Holder of such Claim and the Debtor, and after the Effective Date, by Reorganized
20 LVMC. Creditors in Class 2 are Unimpaired under the Plan, deemed to have accepted the Plan,
21 and are not entitled to vote on the Plan. The Debtor believed that Allowed Other Secured Claims
22 are approximately \$1,700.

23 **3. Treatment of Class 3 (General Unsecured Claims).**

24 Each Holder of Allowed General Unsecured Claims will receive in full and final
25 satisfaction of their Allowed General Unsecured Claim, their pro rata share of \$175,000 in Cash,
26 which payment shall be made by Reorganized LVMC in 12 equal installments without interest
27 beginning upon the latest of: (i) the first Business Day following the Effective Date or as soon
28 thereafter as practicable; (ii) such date as may be fixed by the Bankruptcy Court; (iii) the first

1 Business Day following the fourteenth (14th) day after such Claim is Allowed; and (iv) such date
2 as agreed upon by the Holder of such Claim and the Debtor or Reorganized LVMC. Creditors in
3 Class 3 are Impaired under the Plan and are entitled to vote on the Plan. The Debtor believes
4 that Allowed General Unsecured Claims are approximately \$150,000 - \$175,000 without regard
5 to rejection damages and disputed personal injury claim.

6 **4. Treatment of Class 4 (1st Tier Bond Secured Claims).**

7 On the Effective Date or as soon thereafter as practicable, the Director will receive in full
8 and final satisfaction of the Secured Claim portion of the 1st Tier Bond Claims the Amended and
9 Restated 1st Tier Note for \$7,500,000. The Director shall assign the Amended and Restated 1st
10 Tier Note to the 1st Tier Trustee, reserving to the Director its indemnification and other rights as
11 specified in the assignments of those obligations in the 1st and 2nd Tier Indenture. The
12 Amended and Restated 1st Tier Note will be secured by the Project Agreements and the Net
13 Project Revenues generated after the Effective Date. The Amended and Restated 1st Tier Note
14 will provide for interest at 5.625% per annum and interest payable quarterly commencing March
15 31, 2011. Beginning March 31, 2012, 30 quarterly installments of principal and interest will be
16 payable with the last payment of principal and interest due on June 30, 2019 (the "Maturity
17 Date"). The 1st Tier Note shall be extinguished and discharged and the Amended and Restated
18 Financing Agreement shall provide for the liabilities and obligations arising under the Amended
19 and Restated 1st Tier Note, and shall not provide for any liabilities or obligations regarding the
20 1st Tier Bond Claims or the 1st Tier Notes. The treatment afforded the Holders of Class 4
21 Claims does not affect the rights of the Holders of Class 4 Claims or the 1st Tier Trustee under
22 the 1st and 2nd Tier Indenture against any party other than the Debtor, and specifically, is not
23 intended to nor does it: (i) modify the maturity, the principal or initial denomination amount, or
24 the interest rate or maturity value of the 1st Tier Bonds; (ii) affect or extinguish the exclusion of
25 interest paid on the 1st Tier Bonds (whether paid by the Reorganized Debtor or any third party)
26 from gross income for federal income tax purposes; or (iii) affect or diminish any third-party
27 rights to reimbursement or subrogation under the 1st and 2nd Tier Indenture or 1st Tier
28 Bondholders Insurance Policy. The Holders of Class 4 Claims are Impaired under the Plan and

1 are entitled to vote on the Plan. The Debtor does not believe that the Allowed 1st Tier Bond
2 Secured Claims in Class 4 exceed \$7,500,000.

3 **5. Treatment of Class 5 (1st Tier Bond Unsecured Claims).**

4 On the Effective Date in full satisfaction of the 1st Tier Bond Unsecured Claims,
5 Reorganized LVMC shall deliver the Additional Payment Obligation Note for \$11,000,000 to the
6 Director. The Director shall assign the Additional Payment Obligation Note, which shall be
7 unsecured, to the 1st Tier Trustee, reserving to the Director its indemnification and other rights
8 as specified in the assignments of those obligations in the 1st and 2nd Tier Indenture.
9 Commencing March 31, 2011, Reorganized LVMC will commence payment of the Additional
10 Payment Obligation to the Director in full and final satisfaction of the Unsecured Claim portion
11 of the 1st Tier Bond Claims. The treatment afforded the Holders of Class 5 Claims does not
12 affect the rights of the Holders of Class 5 Claims or the 1st Tier Trustee under the 1st and 2nd
13 Tier Indenture against any party other than the Debtor, and specifically, is not intended to nor
14 does it: (i) modify the maturity, the principal or initial denomination amount, or the interest rate
15 or maturity value of the 1st Tier Bonds; (ii) affect or extinguish the exclusion of interest paid on
16 the 1st Tier Bonds (whether paid by the Reorganized Debtor or any third party) from gross
17 income for federal income tax purposes; or (iii) affect or diminish any third-party rights to
18 reimbursement or subrogation under the 1st and 2nd Tier Indenture or 1st Tier Bondholders'
19 Insurance Policy. The Holders of Class 5 Claims are Impaired under the Plan and are entitled to
20 vote on the Plan. The Debtor believes the Allowed Class 5 Claims are approximately
21 \$445,000,000.

22 **6. Treatment of Class 6 (2nd Tier Bond Claims).**

23 2nd Tier Bond Claims are contractually subordinated to the 1st Tier Bond Claims.
24 Because the 1st Tier Bond Claims are not being paid in full, Holders of Class 6 Claims shall not
25 receive or retain any property on account of their Claims under this Plan. The 2nd Tier
26 Obligation will be extinguished and discharged, and the Amended and Restated Financing
27 Agreement shall not provide for any liabilities regarding the 2nd Tier Bond Claims or the 2nd
28 Tier Obligation. 2nd Tier Bond Claims are Impaired and are deemed to have rejected the Plan.

1 **7. Treatment of Class 7 (3rd Tier Bond Claims).**

2 3rd Tier Bondholders are contractually subordinated to the 1st Tier Bond Claims and 2nd
3 Tier Bond Claims. Because the 1st Tier Bond Claims and 2nd Tier Bond Claims are not being
4 paid in full, Holders of Class 7 Claims shall not receive or retain any property on account of their
5 Claims under this Plan. The 3rd Tier Note will be extinguished and discharged, and the
6 Amended and Restated Financing Agreement shall not provide for any liabilities regarding the
7 3rd Tier Bond Claims or the 3rd Tier Note. 3rd Tier Bond Claims are Impaired and are deemed
8 to have rejected the Plan.

9 **8. Treatment of Class 8 (Director Claims).**

10 On the Effective Date, the Amended and Restated Financing Agreement shall become
11 effective and from and after the Effective Date, all Allowed Director Claims shall participate in
12 the distributions to Holders of Class 4 Claims and Class 5 Claims as provided for in the
13 Amended and Restated Financing Agreement and the 1st and 2nd Tier Indenture. The Director
14 Claims are Impaired under the Plan and entitled to vote on the Plan.

15 **9. Treatment of Class 9 (Subordinated Claims).**

16 Holders of Subordinated Claims shall not receive any distribution on account of such
17 Claims. Holders of Class 9 Claims are Impaired under the Plan, not entitled to vote on the Plan,
18 and deemed to have rejected the Plan.

19 **D. Means for Implementation of the Plan.**

20 **1. Reorganized LVMC.**

21 On or before the Effective Date, the Reorganized LVMC Organizational Documents shall
22 be executed and, to the extent required, filed with the Nevada Secretary. The Reorganized
23 LVMC Organizational Documents shall (i) include, among other things, pursuant to section
24 1123(a)(6) of the Bankruptcy Code, a provision prohibiting the issuance of non-voting equity
25 securities, but only to the extent required by section 1123(a)(6) of the Bankruptcy Code; and (ii)
26 to the extent necessary or appropriate, include such provisions as may be needed to effectuate
27 and consummate the Plan and the transactions contemplated herein. After the Effective Date,
28 Reorganized LVMC shall be responsible for the preparation of all reports, tax returns and other

1 governmental filings required to be filed by the Debtor and Reorganized LVMC and all
2 obligations related thereto.

3 **2. Additional Reorganized LVMC Provisions.**

4 Reorganized LVMC Organizational Documents, and resolutions or similar documents
5 related to the formation and governance of Reorganized LVMC under the Plan shall be subject to
6 applicable bankruptcy and/or Nevada law. Reorganized LVMC shall remain a Nevada non-
7 profit corporation.

8 **3. Effective Date Events.**

9 On the Effective Date, Reorganized LVMC shall execute and deliver to the Director (x)
10 the Amended and Restated 1st Tier Note, (y) the Additional Payment Obligation Note, and (z)
11 the Amended and Restated Financing Agreement and related security documents as provided for
12 in the Plan, all of which shall become immediately effective, and all of which the Director shall
13 assign to the 1st Tier Trustee as provided for in the Amended and Restated Financing Agreement
14 and the 1st and 2nd Tier Indenture, reserving to the Director its indemnification and other rights
15 as specified in the assignments of those obligations in the Amended and Restated Financing
16 Agreement and the 1st and 2nd Tier Indenture.

17 **4. Post-Effective Date Management and Operations.**

18 On and after the Effective Date, Reorganized LVMC will continue to be managed by the
19 existing managers, officers, and directors under their existing employment agreements, if any,
20 pursuant to the Reorganized LVMC Organizational Documents, and otherwise according to the
21 terms and conditions that existed on the date of the filing of the Plan, unless otherwise disclosed.
22 Reorganized LVMC shall be responsible for the payment of all Allowed Claims to be paid
23 pursuant to the Plan which are not paid on or before the Effective Date, as well as all Allowed
24 Claims, including Taxes and Professional Fees, incurred by the Debtor and in operating its
25 business and complying with the Plan up to and including the Effective Date, whether due and
26 payable before or after the Effective Date. Reorganized LVMC is authorized without further
27 order of the Bankruptcy Court to obtain and effectuate the Working Capital Loan as the board of
28 directors of Reorganized LVMC determines in its business judgment.

1 **5. Post-Effective Date Officers and Directors of Reorganized LVMC.**

2 On and after the Effective Date, the initial board of directors of Reorganized LVMC shall
3 be comprised of the five (5) individuals serving on the board of directors on the Confirmation
4 Date. Thereafter, members of the board of directors shall be selected pursuant to the
5 Reorganized LVMC Organizational Documents. The initial officers shall be comprised of the
6 individuals employed as officers on the Confirmation Date. The Debtor will disclose, at or prior
7 to the Confirmation Hearing, the identity of such individuals.

8 **6. No Corporate Action Required.**

9 As of the Effective Date: (i) the adoption, execution, delivery and implementation or
10 assignment of all contracts, leases, instruments, releases and other agreements related to or
11 contemplated by the Plan; and (ii) the other matters provided for under or in furtherance of the
12 Plan involving corporate action to be taken by or required of the Debtor shall be deemed to have
13 occurred and be effective as provided herein, and shall be authorized and approved in all respects
14 without further order of the Bankruptcy Court or any requirement of further action by the board
15 of directors or officers of the Debtor. In particular, the adoption of the amended organizational
16 documents, and the selection of directors and officers of the Debtor, and all other actions
17 contemplated by or described in the Plan with respect thereto, shall be authorized and approved
18 and be binding and in full force and effect in all respects (subject to the provisions of the Plan
19 and the Confirmation Order), in each case without further notice to or order of the Bankruptcy
20 Court, act or action under applicable law, regulation, order, or rule (other than filing such
21 organizational documents with the applicable governmental unit as required by applicable law)
22 or the vote, consent, authorization or approval of any Person.

23 **7. Effectuation of Transactions.**

24 On the Effective Date, the appropriate officers of the Debtor and members of the board of
25 directors are authorized to issue, execute, and deliver the contracts, agreements, documents,
26 guarantees, pledges, consents, securities, certificates, resolutions and instruments contemplated
27 by or described in the Plan in the name of and on behalf of the Debtor and Reorganized LVMC,
28 and to otherwise fully consummate the transactions contemplated by the Plan, in each case

1 without further notice to or order of the Bankruptcy Court, act or action under applicable law,
2 regulation, order, or rule or any requirement of further action, vote or other approval or
3 authorization by any Person.

4 **8. Filing with Nevada Secretary.**

5 To the extent applicable, in accordance with applicable law, on the Effective Date a
6 certified copy of the Plan and the Confirmation Order shall be filed with the Nevada Secretary.
7 The Debtor, from the Confirmation Date until the Effective Date, is authorized and directed to
8 take any action or carry out any proceeding necessary to effectuate the Plan pursuant to
9 applicable law.

10 **E. Executory Contracts and Unexpired Leases.**

11 **1. Executory Contracts.**

12 Except for Executory Contracts and Unexpired Leases specifically addressed in the Plan
13 or set forth on the schedule of Rejected Executory Contracts and Unexpired Leases attached as
14 Schedule 7.1 to the Plan (which may be supplemented and amended up to the date the
15 Bankruptcy Court enters the Confirmation Order), all Executory Contracts and Unexpired Leases
16 that exist on the Confirmation Date shall be deemed assumed by Reorganized LVMC on the
17 Effective Date.

18 **2. Approval of Assumption or Rejection.**

19 Entry of the Confirmation Order shall constitute as of the Effective Date: (i) approval,
20 pursuant to Section 365(a) of the Bankruptcy Code, of the assumption by the Debtor of each
21 Executory Contract and Unexpired Lease to which the Debtor is a party and which is not listed
22 on Schedule 7.1, not otherwise provided for in the Plan and neither assumed, assumed and
23 assigned, nor rejected by separate order prior to the Effective Date; and (ii) rejection by the
24 Debtor of each Executory Contract and Unexpired Lease to which the Debtor is a party listed on
25 Schedule 7.1. Upon the Effective Date, each counter party to an assumed Executory Contract or
26 Unexpired Lease listed shall be deemed to have consented to assumption contemplated by
27 Section 365(c)(1)(B) of the Bankruptcy Code, to the extent such consent is necessary for such
28 assumption.

1 To the extent applicable, all Executory Contracts or Unexpired Leases of Reorganized
2 LVMC assumed pursuant to the Plan shall be deemed modified such that the transactions
3 contemplated by the Plan shall not be a “change of control,” however such term may be defined
4 in the relevant Executory Contract or Unexpired Lease and any required consent under any such
5 Executory Contract or Unexpired Lease shall be deemed satisfied by the confirmation of the
6 Plan.

7 **3. Cure of Defaults.**

8 The Debtor or Reorganized LVMC shall Cure any defaults respecting each Executory
9 Contract or Unexpired Lease assumed pursuant to the Plan upon the latest of (i) the Effective
10 Date or as soon thereafter as practicable; (ii) such dates as may be fixed by the Bankruptcy Court
11 or agreed upon by the Debtor, and after the Effective Date, Reorganized LVMC; or (iii) the first
12 Business Day following the fourteenth (14th) day after the entry of a Final Order resolving any
13 dispute regarding (a) a Cure amount; (b) the ability of the Debtor or the Reorganized LVMC to
14 provide adequate assurance of future performance under the Executory Contract or Unexpired
15 Lease assumed pursuant to the Plan in accordance with Section 365(b)(1) of the Bankruptcy
16 Code; or (c) any other disputed matter pertaining to assumption, assignment or the Cure of a
17 particular Executory Contract or an Unexpired Lease. Schedule 7.3 to the Plan lists the Debtors’
18 proposed Cure amounts, if any, that will be paid as provided for above, which Schedule 7.3 may
19 be amended up to and including the five (5) days prior to the commencement of the
20 Confirmation Hearing.

21 **4. Objection to Cure Amounts.**

22 Any party to an Executory Contract or Unexpired Lease who objects to the Cure amounts
23 listed on Schedule 7.3 to the Plan must file and serve an objection on the Debtor’s counsel no
24 later than thirty (30) days after the Effective Date. Failure to file and serve a timely objection
25 shall be deemed consent to the Cure amounts listed on Schedule 7.3. If there is a dispute
26 regarding: (i) the amount of any Cure payment; (ii) the ability of Reorganized LVMC to provide
27 “adequate assurance of future performance” under the Executory Contract or Unexpired Lease to
28 be assumed or assigned; or (iii) any other matter pertaining to assumption, the Cure payments

required by Section 365(b)(1) of the Bankruptcy Code will be made following the entry of a Final Order resolving the dispute and approving the assumption, except as provided in Section 7.3 of the Plan.

5. Confirmation Order.

The Confirmation Order will constitute an order of the Bankruptcy Court approving the assumptions described in Section 7 of the Plan, pursuant to Section 365 of the Bankruptcy Code, as of the Effective Date. Notwithstanding the foregoing, if, as of the date the Bankruptcy Court enters the Confirmation Order, there is pending before the Bankruptcy Court a dispute concerning the cure amount or adequate assurance for any particular Executory Contract or Unexpired Lease (or if the time period for a non-Debtor to object to the Cure has not yet lapsed), the assumption of such Executory Contract or Unexpired Lease shall be effective as of the date the Bankruptcy Court enters an order resolving any such dispute and authorizing assumption by the Debtor.

6. Post-Petition Date Contracts and Leases.

Each such Executory Contract and Unexpired Lease shall be performed by the Debtor or Reorganized LVMC, as applicable, in the ordinary course of its business.

7. Bar Date.

All proofs of Claims with respect to Claims arising from the rejection of any Executory Contract or Unexpired Lease shall be filed no later than thirty (30) days after the Effective Date. Any Claim not filed within such time shall be forever barred.

F. Conditions Precedent to Confirmation and the Effective Date.

1. Conditions to Confirmation.

As a condition precedent to the Confirmation of the Plan, the Confirmation Order shall be in form and substance reasonably acceptable to the Debtor and the Director.

2. Conditions to Effectiveness.

The following are conditions precedent to the occurrence of the Effective Date:

- (i) The Confirmation Order shall be a Final Order;

(ii) No request for revocation of the Confirmation Order under Section 1144 of the Bankruptcy Code shall have been made, or, if made, shall remain pending, including any appeal;

(iii) All documents necessary to implement the transactions contemplated by the Plan shall be in form and substance reasonably acceptable to the Debtor and the Director; and

(iv) Sufficient Cash and other Assets shall be set aside, reserved and withheld by the Debtor to make the distributions required to be paid on the Effective Date or within sixty (60) days thereafter by the Bankruptcy Code and the Plan.

3. **Notice of Effectiveness.**

When all of the steps contemplated by Section 9.2 of the Plan have been completed, the Debtor shall file with the Bankruptcy Court and serve upon all Creditors and all potential Holders of Administrative Claims known to the Debtor (whether or not disputed), a Notice of Effective Date of Plan. The Notice of Effective Date of Plan shall include notice of the Administrative Claim Bar Date.

4. **Waiver of Conditions.**

The Debtor, and if applicable, Reorganized LVMC, may waive any or all of the other conditions set forth in the Plan and specifically Sections 9.2.2. and 9.2.4. of the Plan (each for themselves but not for others) without leave of or order of the Bankruptcy Court and without any formal action. The failure of a party to exercise any of the foregoing rights shall not be deemed a waiver of any other rights, and each right shall be deemed an ongoing right that may be asserted at any time prior to the filing of the Notice of Effectiveness.

VII. RISK FACTORS

In addition to risks discussed elsewhere in this Disclosure Statement, the Plan and the transactions contemplated by the Plan involve the following risks, which should be taken into consideration.

A. **The Debtor Has No Duty To Update.**

1 The statements in this Disclosure Statement are made by the Debtor as of the date hereof,
2 unless otherwise specified herein. The delivery of this Disclosure Statement after that date does
3 not imply that there has been no change in the information set forth herein since that date. The
4 Debtor has no duty to update this Disclosure Statement unless ordered to do so by the
5 Bankruptcy Court.

6 **B. Information Presented Is Based on the Debtors' Books and Records, and Is**
7 **Unaudited.**

8 While the Debtor has endeavored to present information fairly in this Disclosure
9 Statement, there is no assurance that the Debtor's books and records upon which this Disclosure
10 Statement is based are complete and accurate. Historical financial information contained herein,
11 though, has been audited.

12 **C. Projections and Other Forward-Looking Statements Are Not Assured, and Actual**
13 **Results Will Vary.**

14 Certain information in this Disclosure Statement is forward-looking, and contains
15 estimates and assumptions which might ultimately prove to be incorrect, and projections which
16 may differ materially from actual future results. There are uncertainties associated with all
17 assumptions, projections and estimates, and they should not be considered assurances or
18 guarantees of the amount of funds that will be distributed or the amount of Claims in the various
19 Classes that will be allowed. The amount of Allowed Claims in each Class could be
20 significantly more than projected, which in turn could cause the value of Distributions to be
21 reduced substantially.

22 **D. No Legal or Tax Advice Is Provided to You by This Disclosure Statement.**

23 The contents of this Disclosure Statement should not be construed as legal, business or
24 tax advice. Each Creditor should consult his, her or its own legal counsel and accountant as to
25 legal, tax and other matters concerning his, her or its Claim or Equity Interest and the applicable
26 treatment under the Plan.

27 **E. No Admissions Made.**

28

Nothing contained herein shall constitute an admission of any fact or liability by the Debtor or any other party nor shall it be deemed evidence of the tax or other legal effects of the Plan on the Debtor or on Holders of Claims.

F. No Waiver of Right to Object or Right to Recover Transfers and Estate Assets.

A Creditor's vote for or against the Plan does not constitute a waiver or release of any claims or rights of the Debtor (or any other party in interest) to object to that Creditor's Claim, or recover any preferential, fraudulent or other voidable transfer or Estate assets, regardless of whether any claims of the Debtor or its Estate are specifically or generally identified herein.

G. Bankruptcy Law Risks and Considerations.

1. Confirmation of the Plan Is Not Assured.

Although the Debtor believes the Plan will satisfy all requirements for Confirmation, the Bankruptcy Court might not reach that conclusion. It is also possible that modifications to the Plan will be required for Confirmation and that such modifications would necessitate resolicitation of votes.

Confirmation requires, among other things, a finding by the Bankruptcy Court that it is not likely there will be a need for further financial reorganization and that the value of Distributions to dissenting members of Impaired Classes of Creditors would not be less than the value of Distributions such Creditors would receive if the Debtor were liquidated under Chapter 7 of the Bankruptcy Code. Although the Debtor believes that the Plan will not be followed by a need for further financial reorganization and that dissenting members of Impaired Classes of Creditors will receive distributions at least as great as they would receive in a liquidation under Chapter 7, there can be no assurance that the Bankruptcy Court will conclude that these tests have been met.

2. The Effective Date or the Substantial Consummation Date Might Be Delayed or Never Occur.

There is no assurance as to the timing of the Effective Date or Substantial Consummation Date or that they both will occur. If the respective conditions precedent to the Effective Date and Substantial Consummation Date have not occurred or been waived within the prescribed time

frames, the Confirmation Order will be vacated. In that event, the Holders of Claims would be restored to their respective positions as of the day immediately preceding the Confirmation Date, and the Debtor's obligations for Claims would remain unchanged as of such day (except to the extent of any post-Effective Date payments).

3. The Projected Value of Estate Assets Might Not Be Realized.

In the Best Interests Analysis discussed herein, the Debtor has projected the value of the Estate's assets that would be available for payment of expenses and Distributions to Holders of Allowed Claims, as set forth in the Plan in the event of liquidation of the Estate's assets. The Debtor has made certain assumptions, which should be read carefully.

4. Allowed Claims in the Various Classes May Exceed Projections.

The Debtor has also projected the amount of Allowed Claims in each Class in the Best Interests Analysis. Certain Classes, and the Classes below them in priority, could be significantly affected by the allowance of Claims in an amount that is greater than projected.

5. No Representations Outside of This Disclosure Statement Are Authorized.

No representations concerning or related to the Debtor, the Bankruptcy Case, or the Plan are authorized by the Bankruptcy Court or the Bankruptcy Code, other than as set forth in this Disclosure Statement. Any representations or inducements made to secure your acceptance or rejection of the Plan that are other than as contained in, or included with, this Disclosure Statement should not be relied upon by you in arriving at your decision.

H. Risks Related to the Debtor's Business Operations.

The following discussions of risks that relate to the Debtor's business should be read as also being applicable to the business of Reorganized LVMC on and after the Substantial Consummation Date.

1. Effect of the Bankruptcy Case.

If the Bankruptcy Case continues for a prolonged amount of time, the proceedings could adversely affect the Debtor's business and operations. The longer the Bankruptcy Case continues, the more likely it is that customers, suppliers and agents may lose confidence in the Debtor's ability to successfully reorganize its business and will seek to establish alternative

1 commercial relationships. Consequently, the Debtor might lose valuable contracts and other
2 business relationships in the course of the Bankruptcy Case.

3 So long as the Bankruptcy Case continues, the Debtor's senior management will be
4 required to devote significant time and effort to dealing with the Debtor's reorganization instead
5 of focusing exclusively on business operations. Prolonged continuation of the Bankruptcy Case
6 will also make it more difficult to attract and retain management and other key personnel
7 necessary to the success and growth of the Debtor's business.

8 Furthermore, so long as the Bankruptcy Case continues, the Debtor will be required to
9 incur substantial costs for professional fees and other expenses associated with the proceedings.

10 While cash flow projections indicate there will be sufficient cash flow to meet all
11 ordinary demands and to pay professional fees and expenses, prolonged continuation of the
12 Bankruptcy Case may require the Debtor to seek additional financing. It may not be possible to
13 obtain additional financing during or after the Bankruptcy Case on commercially reasonable
14 terms or at all. If the Debtor requires additional financing during the Bankruptcy Case and is
15 unable to obtain it on reasonable terms or at all, the Debtor's chances of a successful
16 reorganization may be seriously jeopardized.

17 **2. The Volatility and Disruption of the Capital and Credit Markets and**
18 **Adverse Changes in the Global Economy Have Negatively Impacted the**
Debtor's Access to Financing.

19 Due to the existing uncertainty in the capital and credit markets and current adverse
20 conditions in the global economy, the Debtor may not have access to capital on feasible terms or
21 on any terms whatsoever.

22 **3. The Debtor Faces Extensive Regulation from Government Authorities.**

23 As owner and operator of the Monorail, the Debtor is subject to extensive Nevada state
24 and local regulation. Nevada state and local government authorities require the Debtor to
25 maintain the Franchise in place for operation of the Monorail. Clark County authorities may
26 limit, condition, suspend or revoke the Franchise for failure to comply with the Franchise
27 Agreement, applicable Clark County Code provisions, or the laws or regulations of the State of
28

1 Nevada or United States. The occurrence of such an event could have a material adverse effect
 2 on the Debtor's business, financial condition and results of operations.

3 No assurances can be given that any new licenses, registrations, findings of suitability,
 4 permits and approvals will be given or that existing ones will be renewed when they expire. Any
 5 failure to renew or maintain licenses or receive new licenses when necessary would have a
 6 material adverse effect on the Debtor.

7 The Debtor is subject to a variety of other rules and regulations, including zoning,
 8 environmental, construction and land-use laws and regulations. Any changes to these laws could
 9 have a material adverse effect on the Debtor's business, financial condition and results of
 10 operations.

11 The compliance costs associated with these laws, regulations and licenses are significant.
 12 A change in any such laws, regulations and licenses or a violation of any current or future laws,
 13 regulations or licenses could require the Debtor to make material expenditures or could
 14 otherwise materially and adversely affect the Debtor's business, financial condition and results
 15 of operations.

16 **4. The Debtor's Business, Financial Condition and Results of Operations Are**
 17 **Dependent in Part on a Number of Factors That Are Beyond the Debtor's**
Control.

18 The economic health of the Debtor's business is generally affected by a number of other
 19 factors that are beyond the Debtor's control, including: (i) local economic conditions, including
 20 seasonal and weather-related factors; (ii) decline in tourism and travel due to poor national or
 21 global economic conditions; (iii) decline in tourism and travel due to occurrences or threats of
 22 terrorism, environmental disaster, outbreak of disease, or other destabilizing events; and (iv)
 23 substantial increases in the cost of electricity and other forms of energy necessary for operation
 24 of the Monorail.

25 **VIII.**
 26 **CERTAIN SECURITIES LAW CONSIDERATIONS**

27 [Discussion regarding the securities law implications of the Plan will be provided in an
 28 amended Disclosure Statement to be provided prior to hearing on Disclosure Statement.]

IX.
POST-EFFECTIVE DATE OPERATIONS

A. Title to Property; Discharge; Injunction.

1. Vesting of Assets.

Subject to and as provided for in the Plan, the Assets shall be vested and/or transferred to Reorganized LVMC on the Effective Date. On and after the Effective Date, Reorganized LVMC may operate its business and may use, acquire, and dispose of property and compromise or settle any Claims without supervision of or approval by the Bankruptcy Court and free and clear of any restrictions of the Bankruptcy Code or the Bankruptcy Rules, other than restrictions expressly imposed by the Plan or the Confirmation Order.

2. Preservation of Litigation Claims.

In accordance with Section 1123(b)(3) of the Bankruptcy Code, and except as otherwise expressly provided in the Plan, on the Effective Date all Litigation Claims shall be assigned to Reorganized LVMC, and Reorganized LVMC shall have the exclusive right to enforce, prosecute, settle, compromise, transfer, or assign (or decline to do any of the foregoing) any or all of the Litigation Claims, including, without limitation, any and all derivative actions pending or otherwise existing against the Debtor as of the Effective Date.

3. Settlement of Litigation Claims.

At any time after the Confirmation Date and before the Effective Date, notwithstanding anything in the Plan to the contrary, the Debtor may settle any or all of the Litigation Claims with the approval of the Bankruptcy Court pursuant to Bankruptcy Rule 9019. After the Effective Date, Reorganized LVMC may, and shall have the exclusive right to, compromise and settle any Claims against it and claims it may have against any other Person or entity, including, without limitation, the Litigation Claims, without notice to or approval from the Bankruptcy Court, including, without limitation, any and all derivative actions pending or otherwise existing against the Debtor as of the Effective Date.

4. Discharge.

On the Effective Date, except as otherwise provided in the Plan, the Debtor shall be discharged from any and all Claims in Classes 1, 2, 3, 4, 5, 6, 7, 8, and 9 to the fullest extent provided in Sections 524 and 1141 of the Bankruptcy Code. The Discharge shall be to the fullest extent provided under Section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code, except as otherwise expressly provided by the Plan or the Confirmation Order, all consideration distributed under the Plan and shall be in exchange for, and in complete satisfaction, settlement, discharge, and release of, all Claims of any kind or nature whatsoever against the Debtor or any of its assets or properties, and regardless of whether any property shall have been distributed or retained pursuant to the Plan on account of such Claims. Except as otherwise expressly provided by the Plan or the Confirmation Order, upon the Effective Date as to Claims in Classes 1, 2, 3, 4, 5, 6, 7, 8, and 9 the Debtor shall be deemed discharged and released under and to the fullest extent provided under section 1141(d)(1)(A) of the Bankruptcy Code from any and all Claims of any kind or nature whatsoever, including, but not limited to, demands and liabilities that arose before the Confirmation Date, and all debts of the kind specified in section 502(g), 502(h), or 502(i) of the Bankruptcy Code.

5. Compromise and Settlement.

The allowance, classification and treatment of all Allowed Claims and their respective distributions under the Plan take into account and/or conform to the relative priority and rights of the Claims in each Class in connection with any contractual, legal and equitable subordination rights relating thereto whether arising under general principles of equitable subordination, Section 510(c) of the Bankruptcy Code, or otherwise, including without limitation the subordination provisions related to the 1st and 2nd Tier Indenture or 3rd Tier Indenture. As of the Effective Date, any and all such rights described in the preceding sentence will be settled, compromised and released pursuant to the Plan and any and all such Causes of Action related thereto are settled, compromised, and released.

6. Debtor Releases.

On the Effective Date and effective as of the Effective Date, for good and valuable consideration, including, but not limited to: (i) the discharge of debt and all other good and

valuable consideration paid pursuant to the Plan; and (ii) the services of the Debtor's officers and directors serving on and since the Petition Date in facilitating the expeditious implementation of the reorganization contemplated by the Plan, the Debtor and Reorganized LVMC shall provide a full discharge and release to, collectively, and solely in their capacity as such, all officers, directors, employees, attorneys, actuaries, financial advisors, accountants, investment bankers, agents, professionals and representatives of the Debtor serving on and since the Petition Date (collectively, the "Released Parties" (and each such Released Party so released shall be deemed released and discharged by the Debtor and Reorganized LVMC)) and their respective properties from any and all Causes of Action, whether known or unknown, whether for torts, including fraud, contract, violations of federal or state securities laws, or otherwise, arising from or related in any way to the Debtor or Reorganized LVMC, including, without limitation, those that any of the Debtor or Reorganized LVMC would have been legally entitled to assert in its own right (whether individually or collectively) or that any Holder of a Claim or other entity would have been legally entitled to assert on behalf of the Debtor or its Estate, and further including those in any way related to the Bankruptcy Case or the Plan to the fullest extent of the law; provided, however, that the foregoing releases shall not operate to waive or release any Released Party from (a) any Causes of Action expressly set forth in and preserved by the Plan, any Plan Supplement or related documents or (b) as a result of actual fraud, gross negligence or willful misconduct.

7. Injunction.

From and after the Effective Date, and except as provided in the Plan and the Confirmation Order, all entities that have held, currently hold or may hold a Claim that is terminated pursuant to the terms of the Plan are permanently enjoined from taking any of the following actions on account of any such Claims: (i) commencing or continuing in any manner any action or other proceeding against Reorganized LVMC or its property; (ii) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order against Reorganized LVMC or its property; (iii) creating, perfecting or enforcing any Lien or encumbrance against Reorganized LVMC or its property; (iv) asserting a setoff, right of

1 subrogation or recoupment of any kind against any debt, liability or obligation due to
2 Reorganized LVMC or its property; and (v) commencing or continuing any action, in any
3 manner or any place, that does not comply with or is inconsistent with the provisions of the Plan
4 or the Bankruptcy Code. By accepting distributions pursuant to the Plan, each Holder of an
5 Allowed Claim will be deemed to have specifically consented to the injunctions set forth in
6 Section 10.7 of the Plan.

7 **8. Exculpation.**

8 From and after the Effective Date, none of the Debtor, any Statutory Committees,
9 Reorganized LVMC nor any of their respective directors, officers, managers, employees,
10 advisors, attorneys or agents on and from the Petition Date forward, shall have or incur any
11 liability to any Holder of a Claim or any other party-in-interest, or any of their respective agents,
12 employees, representatives, financial advisors, attorneys or Affiliates, or any of their successors
13 or assigns, for any act or omission in connection with, relating to, or arising out of (from the
14 Petition Date forward) the Bankruptcy Case, Reorganized LVMC, the pursuit of Confirmation of
15 the Plan or the Substantial Consummation of the Plan, except for gross negligence and willful
16 misconduct, and in all respects shall be entitled to reasonably rely upon the advice of counsel
17 with respect to their duties and responsibilities under the Plan or in the context of the Bankruptcy
18 Case. No Holder of a Claim, nor any other party-in-interest, including their respective agents,
19 employees, representatives, financial advisors, attorneys or Affiliates, shall have any right of
20 action against the Debtor, any Statutory Committees, Reorganized LVMC or any of their
21 respective present or former members, officers, directors, managers, employees, advisors,
22 attorneys or agents, relating to, or arising out of (from the Petition Date forward) the Bankruptcy
23 Case, the pursuit of Confirmation of the Plan, the Substantial Consummation of the Plan or the
24 administration of the Plan, except for: (i) their willful misconduct and gross negligence; (ii)
25 matters specifically contemplated by either the Plan or Reorganized LVMC; and (iii) any
26 liability of an attorney to its client not subject to exculpation under the Bankruptcy Code.

27 **9. Director and Officer Liability Insurance.**

28

As of the Effective Date, Reorganized LVMC will obtain sufficient tail coverage under a directors' and officers' liability insurance policy (the "D&O Liability Insurance Policy", and, together with all insurance policies for directors and officers' liability maintained by the Debtor as of the Petition Date, the "D&O Liability Insurance Policies") for the directors and officers of the Debtor and Reorganized LVMC, as applicable (from the Petition Date forward) for a period of six (6) years. The Debtor will assume and, if applicable, assign to Reorganized LVMC all of the D&O Liability Insurance Policies pursuant to Section 365(a) of the Bankruptcy Code as of the Effective Date. Entry of the Confirmation Order will constitute approval by the Bankruptcy Court of the Debtor's foregoing assumption and assignment by the Debtor to Reorganized LVMC of each of the D&O Liability Insurance Policies. Notwithstanding anything to the contrary contained in the Plan, Confirmation of the Plan shall not discharge, impair or otherwise modify any indemnity obligations assumed by the foregoing assumption of the D&O Liability Insurance Policies, and each such indemnity obligation will be deemed and treated as an Executory Contract that has been assumed by the Debtor and assigned to Reorganized LVMC under the Plan as to which no proof of Claim need be filed.

10. Indemnification.

All indemnification provisions currently in place (whether in the bylaws, articles or certificates of incorporation, articles of limited partnership, limited liability company agreements, board resolutions (or resolutions of similar bodies) or employment contracts) for the directors, officers, employees, attorneys, other professionals and agents of the Debtor (from the Petition Date forward) shall be assumed, and shall survive effectiveness of the Plan. All indemnification provisions in place on and prior to the Effective Date for current directors and officers of the Debtor (from the Petition Date forward) shall (i) survive the Effective Date of the Plan for Claims related to or in connection with any actions, omissions or transactions occurring prior to the Effective Date, and (ii) remain liabilities of Reorganized LVMC specifically on behalf of the Debtor.

B. Post Confirmation Reporting and Quarterly Fees to the UST.

Until the entry of the final decree closing the Bankruptcy Case, Reorganized LVMC shall

1 comply with the post-confirmation reporting requirements found in Local Rule 3020 of the
 2 Bankruptcy Court. Additionally, to the extent required, Reorganized LVMC shall file post-
 3 confirmation quarterly operating reports as required by the United States Trustee Guidelines,
 4 para. 7.2.

5 Prior to the Effective Date, the Debtor, and after the Effective Date, Reorganized LVMC
 6 shall pay all quarterly fees payable to the Office of the United States Trustee consistent with
 7 applicable provisions of the Bankruptcy Code and Bankruptcy Rules.

8 **X.**
CERTAIN FEDERAL INCOME TAX CONSEQUENCES

9 [Discussion regarding the federal income tax implications of the Plan will be provided in
 10 an amended Disclosure Statement to be provided prior to hearing on Disclosure Statement.]

11 **XI.**
CONFIRMATION OF THE PLAN

12 **A. Confirmation of the Plan.**

13 Pursuant to Section 1128(a) of the Bankruptcy Code, the Bankruptcy Court will hold a
 14 hearing regarding confirmation of the Plan at the United States Bankruptcy Court for the District
 15 of Nevada, Southern Division, 300 Las Vegas Boulevard South, Las Vegas, NV 89101,
 16 commencing on _____, 2010, at _____ a.m. (PDT).

17 **B. Objections to Confirmation of the Plan.**

18 Section 1128(b) of the Bankruptcy Code provides that any party-in-interest may object to
 19 confirmation of a plan of reorganization. Any objections to confirmation of the Plan must be in
 20 writing, must state with specificity the grounds for such objections and must be filed with the
 21 Bankruptcy Court and served upon the following parties so as to be received on or before the
 22 time fixed by the Bankruptcy Court:

23 The Debtor:

24 Las Vegas Monorail Company
 25 Attn: Curtis L. Myles, III
 26 3900 Paradise Road, Suite 260
 27 Las Vegas, NV 89169
 28 Tel: (702) 699-8200
 Fax: (702) 731-3272

1 With a copy to:

Gordon Silver
Attn: William M. Noall, Esq.
3960 Howard Hughes Parkway, 9th Floor
Las Vegas, NV 89169
Tel: (702) 796-5555
Fax: (702) 369-2666

5 The Director:

The Director of the State of Nevada
Department of Business & Industry
Attn: Mr. Lon A. DeWeese

7 With a copy to:

Lon A. DeWeese
Chief Financial Officer
Nevada Housing Division
1535 Old Hot Springs Road
Suite 50
Carson City, Nevada 89706

11 and

12 Rebecca J. Winthrop, Esq.
13 Ballard Spahr LLP
2029 Century Park East
Suite 800
14 Los Angeles, CA 90067-2909
15 Tel: (424) 204-4330
Fax: (424) 204-4350

16 **C. The Best Interest Test and Feasibility of the Plan.**

17 For the Plan to be confirmed, it must satisfy the requirements discussed below.

18 **1. Best Interest of Creditors.**

19 Pursuant to Section 1129(a)(7) of the Bankruptcy Code, for the Plan to be confirmed, it
20 must provide Holders of Allowed Claims with at least as much under the Plan as they would
21 receive in a liquidation of the Debtor under Chapter 7 of the Bankruptcy Code (the “Best
22 Interests Test”). The Best Interests Test with respect to each Impaired Class requires that each
23 Holder of an Allowed Claim in such Class either: (i) accepts the Plan; or (ii) receives or retains
24 under the Plan property of a value, as of the Effective Date, that is not less than the value such
25 Holder would receive or retain if the Debtor were liquidated under Chapter 7. The Bankruptcy
26 Court will determine whether the value to be received under the Plan by the Holders of Allowed
27 Claims in each Class of Creditors equals or exceeds the value that would be allocated to such
28 Holders in a liquidation under Chapter 7. The Debtor believes that the Plan meets the Best

1 Interests Test and provides value which is not less than what would be recovered by each Holder
2 of an Impaired Claim or Impaired Equity Interest in Class 3, Class 4, Class 5, Class 6, Class 7,
3 Class 8, and Class 9 in a Chapter 7 proceeding for the Debtor.

4 **2. Debtor's Projections.**

5 In connection with certain matters relating to the Plan, A&M assisted the Debtor prepare
6 a set of financial statement projections. The Projected Financial Statements, which are attached
7 hereto as Exhibit C, relate to the projected operating results, cash flow and financial position of
8 the Debtor for the period from October 1, 2010 through December 31, 2010 and to the projected
9 operating results, cash flow and financial position of Reorganized LVMC, for the periods from
10 January 1, 2011 through June 30, 2019 (collectively, the "Projected Financial Statements"). For
11 purposes of the Projected Financial Statements, the Effective Date is assumed to occur on
12 December 31, 2010.

13 The Projected Financial Statements are comprised of an income statement, balance sheet,
14 and statement of cash flows for the period from the fourth quarter of 2010 through the first half
15 of 2019, and the narrative assumptions and qualifications incorporated therein. The Projected
16 Financial Statements are based on the actual and projected consolidated operating results of the
17 Debtor and Reorganized LVMC.

18 As described in greater detail in Exhibit C, the Projected Financial Statements were
19 prepared using a projection model developed by A&M and incorporate myriad assumptions with
20 respect to the anticipated future performance of the Debtor and Reorganized LVMC, general
21 business and economic conditions, and other matters which may be beyond the control of the
22 Debtor and Reorganized LVMC. Although the Debtor believes the assumptions incorporated
23 into the Projected Financial Statements are reasonable, certain of such assumptions ultimately
24 may not be realized or may otherwise prove not to be materially accurate. The presentation of
25 certain financial information in the Projected Financial Statements may depart from, or otherwise
26 be inconsistent with, generally accepted accounting principles.

27 The projected financial statements may not necessarily comply with the guidelines for
28 prospective financial statements published by the AICPA or the rules and regulations of the

1 United States Securities and Exchange Commission. The Debtor's independent accountants
2 have neither compiled, reviewed nor examined the Projected Financial Statements that
3 accompany the Disclosure Statement and, accordingly, do not express an opinion or any other
4 form of assurance with respect to the Projected Financial Statements, assume no responsibility
5 for the Projected Financial Statements, and disclaim any association with the financial
6 projections. The Projected Financial Statements were prepared solely for use in connection with
7 the Disclosure Statement and should not be used for any other purpose and are qualified in their
8 entirety by the descriptions and limitations as contained in the Disclosure Statement and as set
9 forth herein.

10 Moreover, the Projected Financial Statements contain certain statements that are
11 "forward-looking statements" within the meaning of The Private Securities Litigation Reform
12 Act of 1995. These statements are subject to a number of assumptions, risks, and uncertainties,
13 many of which are beyond the control of the Debtor, including the consummation and
14 implementation of the Plan, the continuing availability of sufficient borrowing capacity or other
15 financing to fund operations, achieving operating efficiencies, maintenance of good employee
16 relations, existing and future governmental regulations and actions of governmental bodies,
17 natural disasters and unusual weather conditions, acts of terrorism, industry-specific risk factors,
18 and other market and competitive conditions. Holders of Claims are cautioned that the Forward-
19 Looking Statements are as of the date thereof and are not guarantees of future performance.
20 Actual results or developments may differ materially from the expectations expressed or implied
21 in the forward-looking statements, and the Debtor and Reorganized LVMC, as applicable,
22 undertake no obligation to update any such statements.

23 The Projected Financial Statements, while presented with numerical specificity, are
24 necessarily based on a variety of estimates and assumptions which, though considered reasonable
25 by the Debtor's management, may, in fact, not be realized and are inherently subject to
26 significant business, economic, competitive, industry, regulatory, market, and financial
27 uncertainties and contingencies, many of which are beyond the control of the Debtor and/or
28 Reorganized LVMC, as applicable. No representations can be made or are made as to the

1 accuracy of the Projected Financial Statements or to ability of the Debtor and/or Reorganized
2 LVMC, as applicable, to achieve the projected results. Some assumptions inevitably will be
3 incorrect. Moreover, events and circumstances occurring subsequent to the date on which the
4 Projected Financial Statements were prepared may be different from those assumed, or,
5 alternatively, may have been unanticipated, and thus the occurrence of these events may affect
6 future financial results in a materially adverse or materially beneficial manner. The Debtor and
7 Reorganized LVMC, as applicable, do not intend and undertake no obligation to update or
8 otherwise revise the Projected Financial Statements to reflect events or circumstances existing or
9 arising after the date on which they were prepared or to reflect the occurrence of unanticipated
10 events. Therefore, the Projected Financial Statements may not be relied upon as a guaranty or
11 other form of assurance of the actual results that will occur. In deciding whether to vote to
12 accept or reject the Plan, holders of Claims must make their own independent determinations as
13 to the adequacy and reasonableness of such assumptions and the reliability of the Projected
14 Financial Statements and should consult with their own advisors on all matters.

15 **3. Liquidation Analysis.**

16 The Liquidation Analysis attached as Exhibit B hereto summarizes the Debtor's best
17 estimate of recoveries by Creditors in the event of the conversion of the Debtor's case to a
18 Chapter 7 on December 31, 2010.

19 Generally, to determine what Holders of Allowed Claims in each Impaired Class would
20 receive if the Debtor were liquidated, the Bankruptcy Court must determine what funds would be
21 generated from the liquidation of the Debtor's Assets and properties in a Chapter 7 liquidation
22 case for the Debtor, which for Creditors would consist of the proceeds from the disposition of the
23 Assets of the Debtor, augmented by the unencumbered and available Cash held by the Debtor at
24 the time of commencement of the Chapter 7 case. Such Cash amounts would be reduced by the
25 costs and expenses of the liquidation, a discount inherent to an orderly liquidation, and by such
26
27
28

1 additional Administrative Claims and Other Priority Claims as may result from the termination
2 of the Debtor's business and the use of Chapter 7 for the purpose of liquidation.²⁶

3 In a Chapter 7 liquidation, Holders of Allowed Claims would receive distributions based
4 on the liquidation of the non-exempt assets of the Debtor. There are no exempt assets in the
5 Bankruptcy Case, and, as such, the distributions would include the same assets being collected
6 and liquidated under the Plan, namely the interests of the Debtor in the Cash and the Assets.
7 However, the proceeds from the collection and sale of property of the Estate available for
8 distribution to Creditors would be reduced by the satisfaction of any liens and security interests
9 in the Assets, costs of sale, any commission payable to the Chapter 7 trustee, the trustee's
10 attorneys' and accounting fees, as well as the administrative costs of the Chapter 7 estate. In a
11 Chapter 7 case, the Chapter 7 trustee would be entitled to seek a sliding-scale commission based
12 upon the funds distributed by such trustee to Creditors.

13 Administrative Claims that may arise in the Chapter 7 case or result from the Bankruptcy
14 Case would be paid in full from the liquidation proceeds before the balance of those proceeds
15 would be made available to pay other Allowed Claims in the Chapter 7 case.

16 In addition, the Debtor is doubtful that a Chapter 7 trustee in the Chapter 7 case would
17 pursue any Litigation Claims as vigorously as Reorganized LVMC, or be able to identify any
18 Litigation Claims that are cost-effective to pursue as prudently as Reorganized LVMC who
19 would have the benefit of the knowledge and information that they previously obtained.

20 The distributions from the liquidation proceeds would be paid Pro Rata according to the
21 amount of the aggregate Claims held by each Creditor in the Chapter 7 case in accordance with
22 the distribution scheme of the Bankruptcy Code. The Debtor believes that the most likely
23 outcome under Chapter 7 would be the application of the "absolute priority rule." Under that
24 rule, no junior Creditor in a Chapter 7 case may receive any distribution until all senior Creditors
25 are paid in full, with interest.

26
27 ²⁶ In addition, because the Debtor is a non-profit corporation which does not pay federal income taxes, it is assumed
28 that a buyer will be a for-profit corporation and the buyer will discount the purchase price, among other things, to
reflect the impact of federal income taxes on future earnings from the Monorail.

1 The Debtor has determined that Confirmation will provide each Creditor with not less of
2 a recovery than it would receive if the Debtor were liquidated under Chapter 7. In liquidation
3 under Chapter 7, as set forth for the Debtor in the Liquidation Analysis, the recoveries for each
4 Class of Claims would vary, but would not exceed the projected recoveries under the Plan.

5 Specifically, the Liquidation Analysis estimates proceeds of \$12,925,000 would be
6 available to Creditors in the event of liquidation of the Debtor under Chapter 7, which, but for an
7 insignificant portion to be distributed to Holders of Allowed General Unsecured Claims, would
8 primarily be distributed to the Director and the Director's assignee, the 1st Tier Trustee, in full
9 and final satisfaction of Claims arising under the Financing Agreement and 1st Tier Note. Under
10 the Plan, however, the Director and the 1st Tier Trustee will receive in full and final satisfaction
11 of the Secured Claim portion of the Claims arising under the Financing Agreement and 1st Tier
12 Note the Amended and Restated 1st Tier Note for \$7,500,000, and will receive in full and final
13 satisfaction of the Unsecured Claim portion of the Claims arising under the Financing
14 Agreement and 1st Tier Note the Additional Payment Obligation Note for \$11,000,000.
15 Therefore, Holders of Class 4 and Class 5 Claims will receive the same or better treatment under
16 the Plan than they would in a Chapter 7 liquidation.

17 Likewise, under the Plan, Holders of Class 3 General Unsecured Claims will receive a
18 distribution of 80%, up to a total of \$175,000 in payment of approximately \$150,000 - \$175,000
19 in total Class 3 Claims (excluding damages from Debtor's rejection of Executory Contracts and
20 Unexpired Leases and Disputed personal injury claims), where in a liquidation such Creditors
21 would receive an insignificant distribution. The Class 8 Holder of Director Claims will
22 participate in the distributions to Holders of Class 4 Claims and Class 5 Claims as provided for
23 in the Amended and Restated Financing Agreement and the 1st and 2nd Tier Indenture, and
24 therefore will also receive better treatment under the Plan than in a Chapter 7 liquidation.
25 Classes 6, 7, and 9 would receive nothing in the event of distribution under either a Chapter 7
26 liquidation or the Plan, and therefore would not receive more in liquidation than under the Plan.

27 **4. Feasibility.**
28

1 The Bankruptcy Code requires that in order to confirm the Plan, the Bankruptcy Court
2 must find that Confirmation is not likely to be followed by liquidation or the need for further
3 financial reorganization of the Debtor (the "Feasibility Test"). For the Plan to meet the
4 Feasibility Test, the Bankruptcy Court must find that Reorganized LVMC will possess the
5 resources and working capital necessary to meet its obligations under the Plan.

6 To demonstrate the feasibility of the Plan, the Debtor prepared the Financial Projections
7 attached hereto as Exhibit C. The Financial Projections demonstrate that the Debtor is capable of
8 satisfying the obligations proposed under the Plan, including the payment of amounts due under
9 the Amended and Restated 1st Tier Note and the Additional Payment Obligation Note.

10 In addition, as can be seen from the filed monthly financial reports of the Debtor, the
11 Debtor has generally generated revenues and incurred expenses as anticipated. As such, the
12 Debtor is capable of meeting all Cash demands under the Plan.

13 At the Confirmation Hearing, the Bankruptcy Court will determine whether the Plan
14 satisfies the statutory requirements for Confirmation.

15 **5. Confirmation of the Plan Without Acceptance By All Impaired Classes: the**
16 **"Cramdown" Alternative**

17 Section 1129(b) of the Bankruptcy Code provides that a plan of reorganization may be
18 confirmed even if it has not been accepted by all Impaired classes, as long as at least one
19 Impaired class of claims has accepted it. Consequently, the Bankruptcy Court may confirm the
20 Plan at the Debtor's request notwithstanding the Plan's rejection by Impaired Classes, as long as
21 at least one Impaired Class has accepted the Plan and the Plan "does not discriminate unfairly"
22 and is "fair and equitable" as to each Impaired Class that has not accepted it.

23 A plan will be deemed not to discriminate unfairly under the Bankruptcy Code if a
24 dissenting class is treated equally with respect to other classes of equal rank.

25 A plan will be deemed fair and equitable as to a class of secured claims that rejects the
26 plan if the plan provides: (i)(a) that the holders of claims in the rejecting class retain the lien
27 securing those claims, whether the property subject to those liens is retained by the debtor or
28 transferred to another entity, to the extent of the allowed amount of such claims, and (b) that

1 each holder of a claim in such class receives on account of that claim deferred cash payments
2 totaling at least the allowed amount of that claim of a value, as of the effective date of the plan,
3 at least equal to the value of the holder's interest in the estate's interest in such property; (ii) for
4 the sale, subject to Section 363(k) of the Bankruptcy Code, of any property that is subject to the
5 liens securing the claims included in the rejecting class, free and clear of the liens, with the liens
6 to attach to the proceeds of the sale, and the treatment of the liens on such proceeds as described
7 under clause (i) or (ii) of this paragraph; or (iii) for the realization by such holders of the
8 indubitable equivalent of such claims.

9 A plan is fair and equitable as to a class of unsecured claims that rejects the plan if the
10 plan provides: (i) for each holder of a claim included in the rejecting class to receive or retain on
11 account of such claim property that has a value, as of the effective date of the plan, equal to the
12 allowed amount of such claim; or (ii) that the holder of any claim or interest that is junior to the
13 claims of such rejecting class will not receive or retain on account of such junior claim or interest
14 any property at all.

15 The votes of Holders of 2nd Tier Bond Claims, 3rd Tier Bond Claims, and Subordinated
16 Claims under Classes 6, 7, and 9 are not being solicited because such Holders are not entitled to
17 receive or retain under the Plan any interest or property on account of their Claims. Classes 6
18 and 7 are contractually subordinated to Classes 4 and 5, and Classes 4 and 5 are not being paid in
19 full. Class 9, to the extent such Allowed Claims exist, are subordinated pursuant to Section 510
20 of the Bankruptcy Code. Such Classes therefore are deemed to have rejected the Plan. The
21 Debtor is seeking confirmation of the Plan pursuant to Section 1129(b) of the Bankruptcy Code
22 with respect to Classes 6, 7, and 9, notwithstanding such Classes' deemed rejection of the Plan.
23 The Debtor also may seek confirmation as to other Classes that reject the Plan. Notwithstanding
24 the deemed rejection of the Plan by Classes 6, 7, and 9, the Debtor believes that under all of the
25 relevant facts and circumstances, Classes 6, 7, and 9 are being treated fairly and equitably under
26 the Bankruptcy Code. The Debtor therefore believes the Plan may be confirmed despite its
27 deemed rejection by those Classes.

28

1 **6. Accepting Impaired Class.**

2 Since at least one Class of Claims is Impaired under the Plan, in order for the Plan to be
3 confirmed, the Plan must be accepted by at least one Impaired Class of Claims (not including the
4 votes of Insiders of the Debtor).

5 **7. Acceptance of the Plan.**

6 For an Impaired Class of Claims to accept the Plan, those representing at least two-thirds
7 in amount and a majority in number of the Allowed Claims voted in that Class must be cast for
8 acceptance of the Plan.

9 **8. Allowed Claims.**

10 You have an Allowed Claim if: (i) you or your representative timely files a proof of
11 Claim and no objection has been filed to your Claim within the time period set for the filing of
12 such objections; (ii) you or your representative timely files a proof of Claim and an objection is
13 filed to your Claim upon which the Bankruptcy Court has ruled and allowed your Claim; (iii)
14 your Claim is listed by the Debtor in its Schedules or any amendments thereto (which are on file
15 with the Bankruptcy Court as a public record) as liquidated in amount and undisputed and no
16 objection has been filed to your Claim; or (iv) your Claim is listed by the Debtor in its Schedules
17 as liquidated in amount and undisputed and an objection was filed to your Claim upon which the
18 Bankruptcy Court has ruled to allow your Claim. Under the Plan, the deadline for filing
19 objections to Claims is 120 days following the Effective Date. If your Claim is not an Allowed
20 Claim, it is a Disputed Claim and you will not be entitled to vote on the Plan unless the
21 Bankruptcy Court temporarily or provisionally allows your Claim for voting purposes pursuant
22 to Bankruptcy Rule 3018. If you are uncertain as to the status of your Claim or if you have a
23 dispute with the Debtor, you should check the Bankruptcy Court record carefully, including the
24 Schedules of the Debtor, and seek appropriate legal advice. Neither the Debtor nor its
25 professionals can advise you about such matters.

26 **9. Impaired Claims.**

27 Impaired Claims include those whose legal, equitable, or contractual rights are altered by
28 the Plan, even if the alteration is beneficial to the Creditor, or if the full amount of the Allowed

Claims will not be paid under the Plan. Holders of Claims which are not Impaired under the Plan will be deemed to have accepted the Plan pursuant to Section 1126(f) of the Bankruptcy Code, and the Debtor need not solicit acceptance of the Plan by Holders of such Unimpaired Claims. Holders of Claims which are to receive nothing under the Plan will be deemed to have voted to reject the Plan. Consequently, only Impaired Holders of Claims in Classes 3, 4, 5, and 8 are entitled to vote on the Plan.

10. Voting Procedures.

a. Submission of Ballots.

All Creditors entitled to vote will be sent a ballot, together with instructions for voting, and a copy of this approved Disclosure Statement which includes a copy of the Plan. You should read the ballot carefully and follow the instructions contained therein. Please use only the ballot that was sent with this Disclosure Statement.

You should complete your ballot and return it as follows:

Gordon Silver
Attn: William M. Noall, Esq.
3960 Howard Hughes Parkway, 9th Floor
Las Vegas, NV 89169
Telephone: (702) 796-5555
Facsimile: (702) 369-2666

TO BE COUNTED, YOUR BALLOT MUST BE RECEIVED AT THE ADDRESS LISTED ABOVE BY 5:00 P.M., PACIFIC TIME, ON _____, 2010.

b. Incomplete Ballots.

Unless otherwise ordered by the Bankruptcy Court, ballots which are signed, dated and timely received, but on which a vote to accept or reject the Plan has not been indicated, will be counted as a vote for the Plan.

c. Withdrawal of Ballots.

You may not withdraw or change your ballot after it is cast unless the Bankruptcy Court permits you to do so after notice and a hearing to determine whether sufficient cause exists to permit the withdrawal or change.

d. Questions and Lost or Damaged Ballots.

1 If you have questions concerning these voting procedures, if your ballot is damaged or
2 lost, or if you believe you should have received a ballot but did not receive one, you may contact
3 the Debtor's counsel as listed above regarding submission of ballots.

4 **XII.**
5 **ALTERNATIVES TO THE PLAN**

6 The Debtor believes that the Plan provides Creditors the best and most complete form of
7 recovery available. As a result, the Debtor believes that the Plan serves the best interests of all
8 Creditors and parties-in-interest in the Bankruptcy Case.

9 In formulating and developing the Plan, the Debtor explored numerous alternatives. The
10 Debtor believes not only that the Plan fairly adjusts the rights of various Classes of Creditors
11 and enables the Creditors to realize the greatest sum possible under the circumstances, but also
12 that rejection of the Plan in favor of some theoretical alternative method of reconciling the
13 Claims of the various Classes would require, at the very least, an extensive and time-consuming
14 negotiation process and would not result in a better recovery for any Class. It is not atypical for
15 bankruptcy proceedings involving substantial entities to continue for months or years before a
16 plan of reorganization is consummated and payments are made.

17 **A. Alternative Plans of Reorganization.**

18 Under the Bankruptcy Code, a debtor has an exclusive period of 120 days and an
19 additional vote solicitation period of 60 days from the entry of the order for relief during which
20 time, assuming that no trustee has been appointed by the Bankruptcy Court, only a debtor may
21 propose a plan of reorganization. After the expiration of the initial 180-day period and any
22 extensions thereof, the Debtor or any other party-in-interest may propose a different plan, unless
23 the Bankruptcy Court has extended the exclusivity periods. By stipulation between the Debtor
24 and Wells Fargo, and as approved by the Bankruptcy Court, the Debtor has been provided until
25 August 17, 2010 to file a Plan.

26 **B. Liquidation under Chapter 7.**

27 If a plan of reorganization cannot be confirmed, the Bankruptcy Case may be converted
28 to a Chapter 7 case, in which a trustee would be elected or appointed to liquidate the assets of the

1 Debtor for distribution to Creditors in accordance with the priorities established by the
2 Bankruptcy Code. For a discussion of the effect that a Chapter 7 liquidation would have on
3 recovery by Creditors, see Section XI.C., "The Best Interest Test and Feasibility of the Plan."

4 As previously stated, the Debtor believes that liquidation under Chapter 7 would result in
5 a substantially reduced recovery of funds by the Estate because of: (i) the risk that the Debtor
6 may cease or lose business; (ii) additional administrative expenses involved in the appointment
7 of a trustee for the Debtor and attorneys and other professionals to assist such trustee; and (iii)
8 additional expenses and Claims, some of which would be entitled to priority, which would be
9 generated during the liquidation and from the rejection of leases and other executory contracts in
10 connection with a cessation of the Debtor's operations. Accordingly, the Debtor believes that
11 Holders of certain Classes of Claims will receive substantially smaller distributions in a Chapter
12 7 liquidation than under the Plan.

13 **XIII.**
14 **PREFERENCE AND OTHER AVOIDANCE ACTIONS**

15 A bankruptcy trustee (or the entity as a debtor-in-possession) may avoid as a preference a
16 transfer of property made by a debtor to a creditor on account of an antecedent debt while a
17 debtor was insolvent, where that creditor receives more than it would have received in a
18 liquidation of the entity under Chapter 7 had the payment not been made, if (i) the payment was
19 made within 90 days before the date the bankruptcy case was commenced or (ii) the creditor is
20 found to have been an "insider," as defined in the Bankruptcy Code, within one year before the
21 commencement of the bankruptcy case. A debtor is presumed to have been insolvent during the
22 90 days preceding the commencement of the case.

23 A bankruptcy trustee (or the entity as a debtor-in-possession) may avoid as a fraudulent
24 transfer a transfer of property made by a debtor within two years (and under applicable Nevada
25 law, four years) before the date the bankruptcy case was commenced if the debtor (i) received
26 less than reasonably equivalent value in exchange for such transfer and (ii) was insolvent on the
27 date of such transfer or became insolvent as a result of such transfer, such transfer left the debtor
28

1 with an unreasonably small capital, or the debtor intended to incur debts that would be beyond
2 the debtor's ability to pay as such debts matured.

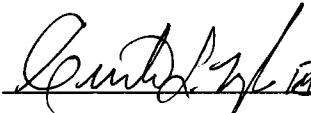
3 Although the Debtor has not fully analyzed various potential preference or other
4 avoidance actions, it is possible that some pre-Petition transactions may be avoidable. The
5 Debtor thus hereby expressly reserves its right to commence any appropriate actions pursuant to
6 Chapter 5 of the Bankruptcy Code.

7 **XIV.**
8 **RECOMMENDATION AND CONCLUSION**

9 The Plan provides the best possible recovery for all parties-in-interest. Accordingly, the
10 Debtor recommends that all Creditors who are entitled to vote on the Plan should vote to accept
11 the Plan.


12 DATED this 17th day of August, 2010.

13 **LAS VEGAS MONORAIL COMPANY, a**
14 **Nevada non-profit corporation**

15 By: 
16 Name: Curtis Myles
17 Title: President

18 **PREPARED AND SUBMITTED BY:**

19 GORDON SILVER

20
21 By: 
22 GERALD M. GORDON, ESQ.
23 WILLIAM M. NOALL, ESQ.
24 ERIC J. VAN, ESQ.
25 3960 Howard Hughes Pkwy., 9th Floor
26 Las Vegas, Nevada 89169
27 Attorneys for the Debtor
28